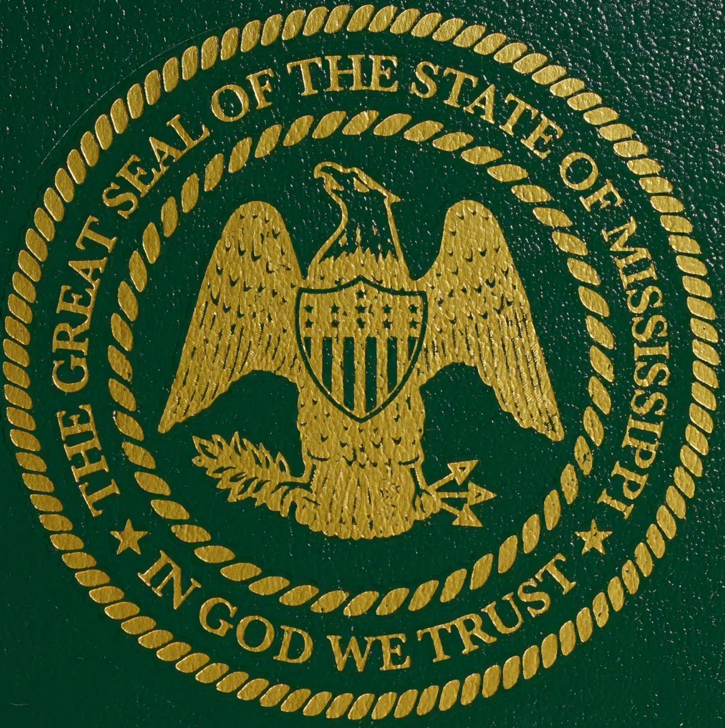

MISSISSIPPI CODE 1972
Annotated

Education
(§ 37-37-1 to
§ 37-177-21)
Libraries, Arts, Archives
and History

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MISSISSIPPI CODE

1972

ANNOTATED

ADOPTED AS THE OFFICIAL CODE OF THE
STATE OF MISSISSIPPI
BY THE
1972 SESSION OF THE LEGISLATURE

VOLUME TEN A

EDUCATION; LIBRARIES, ARTS, ARCHIVES AND HISTORY

§§ 37-37-1 to 39-39-1

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
TO THE END OF THE 2014 REGULAR LEGISLATIVE SESSION
AND 1ST AND 2ND EXTRAORDINARY SESSIONS

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4452812

ISBN 978-1-63043-207-2 (Volume 10A)
ISBN 978-0-327-09628-3 (Code set)

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Matthew Bender & Company, Inc.

701 E. Water Street, Charlottesville, VA 22902-5389

www.lexis.com

(Pub.44510)

PREFACE

The Mississippi Code of 1972, which became effective on November 1, 1973, is the culmination of nearly four years of effort on the part of the Legislature, the Attorney General's office and the publishers, which brings together provisions of general statutory law having a common subject matter into a more orderly and logical framework of code titles and chapters, and employing a modern and effective section numbering system. A major by-product of the code revision will be the state-owned magnetic computer tape containing the Mississippi Code of 1972, which will be of invaluable assistance to the Legislature and to the state.

The enabling act for the code was a recommendation of the Mississippi State Bar, which resulted in the consideration and passage of Senate Bill 1964, Chapter 465, Laws of 1970, signed into law by Governor John Bell Williams.

The Code Committee provided for in that act was comprised of A. F. Summer, Attorney General, Heber Ladner, Secretary of State, Representative Edgar J. Stephens, Jr., Chairman, House Appropriations Committee, Senator William G. Burgin, Jr., Chairman, Senate Appropriations Committee, Representative H. L. Meredith, Jr., Chairman, House Judiciary "A" and Judiciary en banc Committees, Senator E. K. Collins, Chairman, Senate Judiciary "A" and Judiciary en banc Committees, Representative Ney McKinley Gore, Jr., Chairman, House Judiciary "B" Committee, and Senator William E. Alexander, Chairman, Senate Judiciary "B" Committee. In 1972, Representative Marby Robert Penton and Senator Herman B. Decell, Chairman of House and Senate Judiciary "B" Committees, respectively, became members of the Committee, replacing Representative Gore and Senator Collins, Senator Alexander having been appointed Chairman of Senate Judiciary "A" and Judiciary en banc Committees. The Deputy Attorney General, Delos H. Burks, served the Code Committee as Secretary. Special Assistant Attorney General Fred J. Lotterhos, under the supervision of the Attorney General, was assigned the principal responsibility for the supervision of the recodification, including the consideration and treatment of some 16,000 sections of code manuscript.

Final legislative approval was given to the Mississippi Code of 1972 by passage of Senate Bill 2034, Laws of 1972, which was signed by Governor William L. Waller on April 26, 1972.

The Code Committee is of the opinion that the recodification has been thoroughly and well accomplished, and will result in a greatly improved repository of the general statutory law of the state.

A. F. Summer
Attorney General

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PUBLISHER'S FOREWORD

This 2014 Replacement Volume 10A of the Mississippi Code of 1972 Annotated, along with the newly recompiled 2007 Replacement Volume 10, represents material appearing in the original 1973 Volume 10 and the 1996 Replacement Volume 10, the 2001 Replacement Volume 10A and the 2007 Replacement Volume 10A, as well as reflecting amendments, repeals, and new Code provisions enacted by the Mississippi Legislature through the 2014 Regular and 1st and 2nd Extraordinary Legislative Sessions.

This volume contains the text of Title 37, Chapters 37 through 177, and the full text of Title 39, of the Mississippi Code of 1972 Annotated, as amended through the 2014 Regular and 1st and 2nd Extraordinary Legislative Sessions.

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Many of these cases were decided under the former statutes in effect prior to the enactment of the Code of 1972. These earlier cases have been moved to pertinent sections of the Code where they may be useful in interpreting the current statutes. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 2nd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal Series
Mississippi College Law Review
Mississippi Law Journal:

Finally, published Opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

PUBLISHER'S FOREWORD

A comprehensive Index appears at the end of this volume.

Visit the LexisNexis website at http://www.lexis.com for an online bookstore, technical support, customer support, and other company information.

For further information or assistance, please call us toll-free at (800) 833-9844, fax us toll-free at (800) 643-1280, e-mail us at customer.support@bender.com, or write to: Mississippi Code Editor, LexisNexis, 701 E Water Street, Charlottesville, VA 22902-5389.

September 2014 LexisNexis

User's Guide

This guide is designed to help both the lawyer and the layperson get the most out of the Mississippi Code of 1972 Annotated. Information about key features of the Code and suggestions for its more effective use are given under the following headings:

— Advance Code Service
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— Analyses
— Attorney General Opinions
— Code Status
— Comparable Legislation from other States
— Court Rules
— Cross References
— Editor's Notes
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— Tables

If you have a question not addressed by the User's Guide, or comments about your Code service, you may contact us by calling us toll-free at (800) 833-9844, faxing us toll-free at (800) 643-1280, e-mailing us at customer.support@bender.com, or writing to Mississippi Code Editor, LexisNexis, 701 E Water Street, Charlottesville, VA 22902-5389.

ADVANCE CODE SERVICE

Three times a year, at roughly quarterly intervals between delivery of Code supplement pocket parts, we publish the Mississippi Advance Code Service pamphlets. These pamphlets contain updated statutory material and annotations to Attorney General opinions, research and practice references, and recent court decisions construing the Code. Each pamphlet is cumulative, so that each is a "one-stop" source of case notes updating those in your Code bound volumes and pocket parts.

ADVANCE SHEETS

The Advance Sheets consist of a series of pamphlets issued in the spring. The series reproduces the acts passed by the Mississippi Legislature and approved by the Governor during the legislative session. Features include tables showing the impact of legislation on sections of the Mississippi Code of 1972 Annotated, and a cumulative index. These pamphlets enable the user to receive a preview of approved legislation prior to supplement availability, and serve as an excellent source of legislative history.

AMENDMENT NOTES

Every time a Code provision is amended, we prepare a note describing the effect of the amendment. By reading the note, you can ascertain the impact of the change without having to check the former statute itself.

Amendment notes are retained in the Supplement until the bound volume is replaced, at which time notes from all but the last two years are deleted.

Amendment notes are available online from 1991 until the present in the Mississippi Legislative Archive.

ANALYSES

Each title, chapter, and article appearing in a bound volume or supplement is preceded by an analysis. The analysis details the scope of the title, chapter, and article and enables you to see at a glance the content of the title, chapter, and article without resorting to a page-by-page examination in the bound volume or supplement.

ATTORNEY GENERAL OPINIONS

Opinions of the Attorney General for the State of Mississippi have been read for constructions of Mississippi law. Notes describing the subject matter of the opinions have been placed under relevant Code provisions under the heading “Attorney General Opinions.” The citation at the end of each note refers to the person requesting the opinion, the date of the opinion, and the opinion number.

CODE STATUS

The Mississippi Code of 1972 Annotated is Mississippi's official code and is considered evidence of the statute law of the State of Mississippi (see § 1-1-8). The Code was enacted by Chapter 394 of the Laws of 1972, which was signed by the Governor on April 26, 1972.

Title 1, Chapters 1 through 5 of the Code contain statutes governing the status and construction of the Code.

COMPARABLE LEGISLATION FROM OTHER STATES

Notes to comparable legislation from other states appear for uniform laws, interstate compacts, statutory provisions pertaining to reciprocity and cooperation with other states, and various important statutes of general interest. Other states' statutes that are similar in subject matter and scope to those of Mississippi are cited, generally, under the first section of the chapter or article to which they pertain. Occasionally, comparable legislation pertains to only one section, in which case it is cited under that section rather than at the chapter or article level.

See also *Federal Aspects*.

COURT RULES

The Mississippi Court Rules are published separately by LexisNexis in a fully annotated softcover volume which is replaced annually and supplemented semi-annually.

The Court Rules volume contains statewide rules of procedure of the state courts, the local rules of the United States district courts and bankruptcy courts for Mississippi, and the rules of the United States Court of Appeals for the Fifth Circuit. Rules are received from the courts and edited only for stylistic consistency. For further information, see the Preface to the Mississippi Court Rules volume.

CROSS REFERENCES

Cross references refer you to notes under other Code sections, that may affect a law or place it in context. Cross references also are used under repealed provisions to refer you to an existing law on a similar subject. Cross references do not cite all related statutes, however, since these can be identified by using the General Index.

See also *Comparable Legislation from other States* and *Federal Aspects*.

EDITOR'S NOTES

Editor's notes are notes prepared by the Publisher that contain information about important or unusual features of a law, or special circumstances surrounding passage of the law, that are not apparent from the law's text.

See also *Effective Dates*.

EFFECTIVE DATES

Absent a specific effective date provision within an act, Mississippi laws generally take effect upon approval date, which is the date the act is signed into law by the Governor. Acts affecting voting rights and procedures take effect on the date the United States Attorney General interposes no objection under § 5 of the Voting Right Act of 1965.

FEDERAL ASPECTS

Notes to federal legislation that is similar in subject matter and scope to the laws of Mississippi are referenced throughout the Code. In addition, the Code contains the United States Code Service citation for any federal law that is referred to in a Mississippi statute by its popular name or by its session law designation.

See also *Comparable Legislation from other States.*

INDEX

The Code is completely indexed in two softcover Index volumes, which are updated and replaced annually. In addition, each volume of the Code is followed by its own index. As accurate and thorough as the Index is, your best defense against index wild goose chases is familiarity with indexing techniques. To that end, an explanatory Foreword to the Index appears in the first Index volume.

JOINT LEGISLATIVE COMMITTEE NOTES

Joint Legislative Committee notes are included in the Code to describe codification decisions made by the Mississippi Joint Legislative Committee on Compilation, Revision and Publication of Legislation. Examples of Committee actions that warrant the inclusion of a note are the integration of multiple amendments to a single Code section during the same legislative session, and the correction of typographical errors appearing in the Code.

JUDICIAL DECISIONS

Every reported case from the Supreme Court of Mississippi, the Court of Appeals of Mississippi, federal district courts for Mississippi, the federal Fifth Circuit Court of Appeals and the United States Supreme Court has been read for constructions of Mississippi law. These constructions are noted under pertinent sections of the statutes or Mississippi Constitution provisions, under the heading "Judicial Decisions." Where a decision has been reviewed by a higher court, subsequent judicial history and disposition is noted in the case note if such disposition has any bearing on the annotated material. Where two or more decisions state the same rule of law, the case citations are cumulated under one case note.

Case notes are grouped together under headings called "catchlines." The catchlines identify the basic subject matter of the case notes and assist the user in locating pertinent notes. Catchlines are numbered and arranged thematically, with "In general" first. Where there are two or more catchlines, an analysis, listing all the catchlines, precedes the annotations.

Frequently, statutes carry notes to cases that arose under earlier laws on the same subject. Case notes are retained so long as the editor believes the note will have some relevance under current law, though of course the relevance may be diminished by later changes in the law. These case notes appear under the heading "Decisions under former law."

ORGANIZATION AND NUMBERING SYSTEM

The Code is organized by titles, chapters, articles, subarticles, undesignated centered headings and sections. Analyses at the beginning of each title, chapter, article, and subarticle help you understand the internal arrangement of each Code unit (see *Analyses*).

Odd numbers are generally used for the numbering of titles, chapters and sections. Even numbers have been used for some chapters and sections so that a particular new chapter or section might be logically placed with other chapters and sections dealing with the same or similar subject matter. Similarly, the use of numbers with decimal points has been used for some sections in order that they may be inserted among other sections pertaining to the same subject.

The title, chapter, and section for each Code section is revealed by its section number. Thus, in the designation "§ 1-3-65," the first digit ("1") means the provision is in Title 1 ("Laws and Statutes"); the second ("3") indicates Chapter 3 ("Construction of Statutes"); and the last two digits ("65") mean the 65th section in that chapter ("Construction of terms generally").

Articles and subarticles are not reflected by section number designations.

Within sections, subsections and paragraphs usually are designated following this pattern: (1)(a)(i)1. or (1)(a)(i)A. A distinctive indention scheme is applied to suggest the relative value of each unit within this hierarchy.

PLACEMENT OF NOTES

Where a note pertains to a single statute section, it will of course be set out following that section. In many instances, however, a note applies equally to several statute sections or to an entire chapter or article. If the pertinent sections are scattered, or few in number, the note will be duplicated for each section. But where the note applies to all or most of the sections in a chapter or article, we prevent the space-consuming repetition of notes by placing the note at the very beginning of the chapter or article.

REPLACEMENT VOLUMES

The Code is periodically updated and streamlined by the replacement of volumes. Although a current set of the Code contains all currently applicable statutes, we encourage you to retain replaced volumes and their supplement pockets parts for historical reference.

RESEARCH AND PRACTICE REFERENCES

Citations to references in American Jurisprudence, American Jurisprudence Pleading and Practice, American Jurisprudence Proof of Facts, American Jurisprudence Trials, American Law Reports, First through Sixth Series, ALR Federal, Corpus Juris Secundum, various other treatises and practice guides, and Mississippi law journals are given under this heading, wherever the references appear to discuss the statute under which the citation appears, or a topic related to the statute. These citations are intended only to give you a starting point for your library research. The Mississippi law journals include Mississippi Law Journal and Mississippi College Law Review.

SOURCE NOTES

Each section of the Code is followed by a brief note showing the acts of the Legislature on which it is based, including the act that originally enacted the section and any subsequent amendments.

The source note follows the section text, preceding any other annotations for the section. Information in the source note is listed in chronological order, with the most recent information listed last. If a section has been renumbered, the former number will appear in the source note. :

The tables volume should also be consulted when researching the history of a statutory section, since it contains cross reference tables that provide a statutory citation for each section of the session laws and the date each act went into effect.

STATUTE HEADINGS

Headings or "catchlines" for Code sections and subsections are generally created and maintained by the publisher. They are mere catchwords and are not to be deemed or taken as the official title of a section or as a part of the section. Your suggestions for the improvement of particular catchlines are invited.

TABLES

The Mississippi Code of 1972 Annotated contains several tables that can assist you in your research. These are published in the Statutory Tables volume of the Code, and include the following:

- Sections of the Code of 1930 carried into the Code of 1942.
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- Allocation of Acts of Legislature, 1972 — present.
- Consolidated Tables of amendments and repeals of 1942 Code sections.

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CHAPTER 37

Public Schools; Accounting and Auditing

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§ 37-37-1. Uniform system of accounts for school districts.

The State Department of Education is hereby authorized and directed to prescribe and formulate for use by all school districts of this state, including municipal separate school districts, adequate accounting systems and other essential financial records which shall be uniform for all of the school districts of this state. Such uniform system shall include a method of accounting for and keeping records of all funds received, handled and disbursed by such school district, whether derived from taxation or otherwise, including funds derived from donations, athletic events and other special activities of the school district. The uniform system of accounts so prescribed and formulated by the State Department of Education shall be distributed and disseminated to all of the school districts of this state and it shall be mandatory that the boards of trustees of all such school districts install, utilize and follow said uniform system of accounts in keeping the financial records of the school district. At the request of the Mississippi Department of Education, the Office of the State Auditor shall provide advice for implementation of this section.

SOURCES: Codes, 1942, § 6229-01; Laws, 1953, Ex Sess, ch. 21; Laws, 2006, ch. 550, § 5, eff from and after July 1, 2006.

Editor's Note — Section 7-7-2, as added by Laws of 1984, chapter 488, § 90, and amended by Laws of 1985, chapter 455, § 14; 1986, chapter 499, § 1, provided, at subsection (2) therein, that the words "state auditor of public accounts," "state auditor", and "auditor" appearing in the laws of the state in connection with the performance of auditor's functions transferred to the state fiscal management board, shall be the state fiscal management board, and, more particularly, such words or terms shall mean the state fiscal management board whenever they appear.

Thereafter, Laws of 1989, chapter 532, § 2, amended § 7-7-2 to provide that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer, and, more particularly, such words or terms shall mean the State Fiscal Officer whenever they appear; Subsequently, 1989, ch. 544, § 17, effective July 1, 1989, and codified as § 27-104-6, provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Cross References — Post-audits and investigations of financial affairs and transactions involving county school funds, see § 37-61-29.

RESEARCH REFERENCES

CJS. 78A C.J.S., Schools and School Districts § 728.

Practice References. Mississippi School Laws Annotated (Michie).

Federal Education Laws and Regulations (Michie).

Vacca and Bosher, Law and Education: Contemporary Issues and Court Decisions (Matthew Bender).

Rapp, Education Law (Matthew Bender).

§ 37-37-3. Employment of additional examiners.

In addition to all auditors and other employees now or hereafter provided by law, the State Auditor may appoint and employ examiners in the Department of Audit. The examiners shall make such audits as may be necessary to determine the correctness and accuracy of all reports made to the State Department of Education by any school district or school official concerning the number of educable students in any school district, the number of students enrolled in any school district, the number of students in average daily attendance in any school district, and the number of students being transported or entitled to transportation to any of the public schools of this state.

SOURCES: Codes, 1942, § 6229-02; Laws, 1953, Ex Sess, ch. 22, § 1; Laws, 1962, ch. 337, § 1; Laws, 1986, ch. 492, § 115; Laws, 2004, ch. 434, § 1, eff from and after passage (approved Apr. 28, 2004.)

Editor's Note — Section 7-7-2, as added by Laws of 1984, chapter 488, § 90, and amended by Laws of 1985, chapter 455, § 14; 1986, chapter 499, § 1, provided, at subsection (2) therein, that the words "state auditor of public accounts," "state auditor", and "auditor" appearing in the laws of the state in connection with the performance of auditor's functions transferred to the state fiscal management board, shall be the state fiscal management board, and, more particularly, such words or terms shall mean the state fiscal management board whenever they appear.

Thereafter, Laws of 1989, chapter 532, § 2, amended § 7-7-2 to provide that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer, and, more particularly, such words or terms shall mean the State Fiscal Officer whenever they appear; Subsequently, 1989, ch. 544, § 17, effective July 1, 1989, and codified as § 27-104-6, provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and its functions and duties transferred to the State Board of Education. It further provides that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Department of Education.

Cross References — State department of audit generally, see §§ 7-7-201 et seq.

§ 37-37-5. Compensation, bond and qualifications of examiners.

The examiners appointed under the authority of Section 37-37-3 shall be subject to the same provisions of law governing auditors appointed by the State Auditor under the provisions of Sections 7-7-201 through 7-7-221. However, it shall not be necessary that such examiners be certified public accountants or practical accountants or have had any previous accounting or auditing experience, and it shall not be necessary that such examiners pass an examination in practical accounting or auditing as a prerequisite to appointment.

SOURCES: Codes, 1942, § 6229-11; Laws, 1962, ch. 337, § 10; Laws, 1986, ch. 492, § 116, eff from and after July 1, 1987.

Editor's Note — Section 7-7-2, as added by Laws of 1984, chapter 488, § 90, and amended by Laws of 1985, chapter 455, § 14; 1986, chapter 499, § 1, provided, at subsection (2) therein, that the words "state auditor of public accounts," "state auditor", and "auditor" appearing in the laws of the state in connection with the performance of auditor's functions transferred to the state fiscal management board, shall be the state fiscal management board, and, more particularly, such words or terms shall mean the state fiscal management board whenever they appear.

Thereafter, Laws of 1989, chapter 532, § 2, amended § 7-7-2 to provide that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer, and, more particularly, such words or terms shall mean the State Fiscal Officer whenever they appear; Subsequently, 1989, ch. 544, § 17, effective July 1, 1989, and codified as § 27-104-6, provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

§ 37-37-7. Powers of examiners; auditing policies.

(1) In making audits under the provisions of this chapter, the examiners may call the attendance rolls at the schools, make field investigations and surveys, make checks of the number of students being transported upon publicly or privately owned buses, and make other and further examinations and investigations as may be necessary to determine whether or not the students reported are actually enrolled in and attending the public schools or are actually being transported or entitled to transportation to such public schools.

(2) In addition to the powers and duties of examiners in subsection (1), the State Auditor may establish policies and procedures to ensure the accuracy and reliability of student data used to determine state funding for local school districts, which may include, but are not limited to, the following:

(a) On-site audits;

(b) An auditing process that ensures the timeliness and accuracy of reports generated by school districts of this state regarding all student transactions;

(c) An auditing process that provides for the timeliness, process and accuracy of the electronic transmission of all student data to the Mississippi Department of Education, including, but not limited to, student enrollment, attendance, transportation, absenteeism, graduation and dropouts and other student data and administrative functions as deemed necessary;

(d) An audit of the accuracy and validity of all student transactions using the Mississippi Student Information System; and

(e) An audit process that ensures the timeliness and accuracy of reports, other than student data, required for submission in accordance with state law and/or State Board of Education policies.

Reviews and audits shall be conducted with advance notice, except that unannounced audits may be made upon the determination of the State Auditor when they are necessary due to complaints or valid concerns. Examiners shall make every effort to work with school districts in scheduling audits in consideration of instructional activities such as statewide student testing days. The Department of Education and the school district shall cooperate fully with examiners in providing any related information requested in order to properly conduct the review or audit.

SOURCES: Codes, 1942, § 6229-03; Laws, 1953, Ex Sess, ch. 22, § 2; Laws, 1962, ch. 337, § 2; Laws, 1986, ch. 492, § 117; Laws, 2004, ch. 434, § 2, eff from and after passage (approved Apr. 28, 2004.)

§ 37-37-8. Repealed.

Repealed by Laws, 2004, ch. 434, § 5, eff from and after passage (approved April 18, 2004).

[Laws, 1986, ch. 488, § 8; Laws, 1986, ch. 492, § 118, eff from and after July 1, 1987]

Editor's Note — Former § 37-37-8 required examiners to take an actual count of students.

§ 37-37-9. Reports upon completion of examination or audit.

Upon completion of each review or audit, the State Auditor shall prepare a report setting forth the audit results and findings, specifically noting all exceptions or violations of any existing law. Copies thereof shall be furnished to the State Department of Education and each school district reviewed or audited. The original copy shall be retained in the Office of the State Auditor as a permanent record thereof and shall be subject to public inspection. The State Auditor shall complete a comprehensive annual report summarizing results of reviews or audits each year and provide the report to the State Department of Education and to the education committees of the Mississippi House of Representatives and Senate.

SOURCES: Codes, 1942, § 6229-04; Laws, 1953, Ex Sess, ch. 22, § 3; Laws, 1962, ch. 337, § 3; Laws, 1986, ch. 492, § 119; Laws, 2004, ch. 434, § 3, eff from and after passage (approved Apr. 28, 2004.)

Editor's Note — Section 7-7-2, as added by Laws of 1984, chapter 488, § 90, and amended by Laws of 1985, chapter 455, § 14; 1986, chapter 499, § 1, provided, at subsection (2) therein, that the words "state auditor of public accounts," "state auditor", and "auditor" appearing in the laws of the state in connection with the performance of auditor's functions transferred to the state fiscal management board, shall be the state fiscal management board, and, more particularly, such words or terms shall mean the state fiscal management board whenever they appear.

Thereafter, Laws of 1989, chapter 532, § 2, amended § 7-7-2 to provide that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer, and, more particularly, such words or terms shall mean the State Fiscal Officer whenever they appear; Subsequently, 1989, ch. 544, § 17, effective July 1, 1989, and codified as § 27-104-6, provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

§ 37-37-11. Repealed.

Repealed by Laws, 2004, ch. 434, § 6, eff from and after passage (approved April 18, 2004).

[Codes, 1942, § 6229-05; Laws, 1962, ch. 337, § 4; Laws, 1986, ch. 492, § 120, eff from and after July 1, 1987]

Editor's Note — Former § 37-37-11 provided for minimum numbers of audits in each school durung an academic year.

§ 37-37-13. Reporting standards; penalties for adverse findings.

The State Board of Education shall include reporting standards for school districts as part of the standards for accreditation of school districts. These standards shall include penalties within the accreditation system for adverse findings resulting from any reviews or audits conducted under this chapter or through any reviews the State Department of Education may make.

SOURCES: Codes, 1942, § 6229-06; Laws, 1962, ch. 337, § 5; Laws, 1964, ch. 382, § 1; Laws, 1986, ch. 492, § 121; Laws, 2004, ch. 434, § 4, eff from and after passage (approved Apr. 28, 2004.)

§§ 37-37-15 through 37-37-19. Repealed.

Repealed by Laws, 2004, ch. 434, § 7, eff from and after passage (approved April 18, 2004).

§ 37-37-15. [Codes, 1942, § 6229-07; Laws, 1962, ch. 337, § 6; Laws, 1986, ch. 492, § 122, eff from and after July 1, 1987]

§ 37-37-17. [Codes, 1942, § 6229-08; Laws, 1962, ch. 337, § 7; Laws, 1986, ch. 492, § 123, eff from and after July 1, 1987.]

§ 37-37-19. [Codes, 1942, § 6229-09; Laws, 1962, ch. 337, § 8; Laws, 1986, ch. 492, § 124, eff from and after July 1, 1987.]

Editor's Note — Former § 37-37-15 provided for the use of reduced average attendance figures.

Former § 37-37-17 required a school district to provide the necessary funds to cover the reduction of minimum education program funds.

Former § 37-37-19 provided for the reduction of earned credits against the State Public School Building Fund.

§ 37-37-21. Reports of violations; civil and criminal actions.

When, as a result of any audits performed under the terms of this chapter, the State Auditor has reason to believe that any false or erroneous report or violation of law presents ample evidence therefor, he shall report the same to the Attorney General. The Attorney General shall thereupon institute suit in the name of the State of Mississippi and prosecute to a conclusion such actions as may be necessary to make recovery from any and all persons civilly liable. The Attorney General shall also refer the matter to the proper district attorney for the institution of any appropriate criminal proceedings. Any funds recovered by such suits shall be paid into the appropriate school district fund in accordance with the loss such fund or funds may have sustained.

SOURCES: Codes, 1942, § 6229-10; Laws, 1962, ch. 337, § 9; Laws, 1986, ch. 492, § 125, eff from and after July 1, 1987.

Editor's Note — Section 7-7-2, as added by Laws of 1984, chapter 488, § 90, and amended by Laws of 1985, chapter 455, § 14; 1986, chapter 499, § 1, provided, at subsection (2) therein, that the words "state auditor of public accounts," "state auditor", and "auditor" appearing in the laws of the state in connection with the performance of auditor's functions transferred to the state fiscal management board, shall be the state fiscal management board, and, more particularly, such words or terms shall mean the state fiscal management board whenever they appear.

Thereafter, Laws of 1989, chapter 532, § 2, amended § 7-7-2 to provide that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer, and, more particularly, such words or terms shall mean the State Fiscal Officer whenever they appear; Subsequently, Laws, 1989, ch. 544, § 17, effective July 1, 1989, and codified as § 27-104-6, provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

CHAPTER 39

Public Schools; Purchases

SEC.
37-39-1. Definitions.
37-39-3. Repealed.
37-39-5. School boards shall make and maintain list of supplies and equipment regularly used in schools.
37-39-7 through 37-39-13. Repealed.
37-39-15. Purchase of supplies or equipment for schools.
37-39-17. Restrictions on purchases in small quantities; contracts may be awarded for delivery at different points.
37-39-19. Repealed.
37-39-21. Bonds of purchasing agents.
37-39-23. Joint purchases of supplies and services by school boards of public school districts authorized.
37-39-25. Resolution authorizing joint purchases; joint purchasing agent.

§ 37-39-1. Definitions.

The following words and phrases, when used in this chapter, shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section:

(a) "Perishables" shall mean items which have a variable market price on which vendors are unable to submit a long-range price such as fruits and vegetables;

(b) "Purchasing agent" shall mean the superintendent, or other individual or individuals designated by the school board or by the school boards acting jointly as its agent or agents to negotiate and make private contract or to purchase;

(c) "School boards" shall mean the local governing boards of all school districts in the state, whether they act jointly or separately;

(d) "Services" shall mean maintenance, operational and scholastic services utilized within and for the school district or school districts.

SOURCES: Codes, 1942, §§ 6231-01, 6231-02; Laws, 1964, ch. 396, §§ 1, 2; Laws, 1976, ch. 462, § 3; Laws, 1980, ch. 440, § 20; Laws, 1981, ch. 306, § 5; Laws, 1986, ch. 492, § 126; Laws, 2004, ch. 357, § 9, eff from and after July 1, 2004.

§ 37-39-3. Repealed.

Repealed by Laws, 1980, ch. 440, § 28, eff from and after January 1, 1981.

[Codes, 1942, § 6231-10; Laws, 1964, ch. 396, § 10; Laws, 1973, ch. 334, § 1]

Editor's Note — Former Section 37-39-3 provided that the provisions of this chapter were an alternative means to purchase supplies and make contracts therefor.

§ 37-39-5. School boards shall make and maintain list of supplies and equipment regularly used in schools.

It shall be the duty of each school board to make or cause to be made, a list of supplies and equipment, including quality specifications when applicable, regularly used in the schools under its supervision, and to maintain such a list in the office of the school district or county superintendent of education or other executive officer of the board. Such list shall be used by the board in obtaining competitive bids for supplies or equipment to be purchased, and shall be available to any interested persons.

SOURCES: Codes, 1942, § 6231-03; Laws, 1964, ch. 396, § 3, eff from and after July 1, 1964.

RESEARCH REFERENCES

CJS. 78 C.J.S., Schools and School Districts § 395.

§§ 37-39-7 through 37-39-13. Repealed.

Repealed by Laws, 1980, ch. 440, § 28, eff from and after January 1, 1981.

§ 37-39-7. [Codes, 1942, § 6231-02; Laws, 1964, ch. 396, § 2; Laws, 1977, ch. 342]

§ 37-39-9. [Codes, 1942, § 6231-05; Laws, 1964, ch. 396, § 5; Laws, 1974, ch. 379; Laws, 1976, ch. 462, § 4]

§ 37-39-11. [Codes, 1942, § 6231-04; Laws, 1964, ch. 396, § 4]

§37-39-13. [Codes, 1942, § 6231-06; Laws, 1964, ch. 396, § 6]

Editor's Note — Former Section 37-39-7 specified when competitive bids were required and provided that contracts were to go to the lowest and best bidder.

Former Section 37-39-9 authorized the designation of purchasing agents, specified their authority, and provided for emergency purchasing procedures.

Former Section 37-39-11 required that notice of intention to let contracts or to make purchases be given by publication or posting.

Former Section 37-39-13 exempted certain non-competitive items and items with fixed prices from competitive bidding requirements.

§ 37-39-15. Purchase of supplies or equipment for schools.

(1) In connection with the purchase of necessary supplies or equipment for the conduct of regular school operations, school boards may, in their discretion, designate as their purchasing agent or agents such school official or officials as they see fit and may authorize such agent or agents to make purchases of supplies and equipment subject to competitive bid requirements in Sections 31-7-1 et seq., Mississippi Code of 1972.

(2) Supplies that are perishable or foods purchased for use in connection with the school lunch and homemaking programs shall be exempted from competitive bid requirements. However, each school board shall adopt and place in its minutes definite policies for guidance of agents of such boards in

connection with purchases of perishable supplies or foods which are unstable or variable in price. Such policies shall have the effect of law and any violations shall be subject to the penalties as provided by law.

SOURCES: Codes, 1942, § 6231-07; Laws, 1964, ch. 396, § 7; Laws, 1980, ch. 440, § 21; Laws, 1987, ch. 307, § 20, eff from and after passage (approved March 3, 1987).

JUDICIAL DECISIONS

1.-10. [Reserved for future use.]
11. Under former law.

1.-10. [Reserved for future use.]

11. Under former law.

It is the duty of public authorities such as school trustees to accept the bid involving the least expenditure of public funds. Parker Bros. v. Crawford, 219 Miss. 199, 68 So. 2d 281 (1953).

Under this section [Code 1942, § 9027] which provides that the board of trustees of school districts shall let construction contracts go to the lowest and best bidder, the trustees are not compelled to award a contract to the lowest bidder who is financially responsible but they have discretionary power to pass upon the honesty and integrity of the bidder necessary to a faithful performance of the contract, upon his skill and business judgment, his experience and his facilities for carrying out the contract, previous conduct under other contracts and the quality of previous work as well as his pecuniary ability. Parker Bros. v. Crawford, 219 Miss. 199, 68 So. 2d 281 (1953).

Public boards and officials are vested with a sound discretion in making the determination as to who is the lowest and best bidder, and their decisions if based upon an honest and reasonable exercise of the discretion as vested in them will not be interfered with by the courts; however, such public authorities must always exercise a real discretion based upon facts reasonably tending to support their decision. Parker Bros. v. Crawford, 219 Miss. 199, 68 So. 2d 281 (1953).

§ 37-39-17. Restrictions on purchases in small quantities; contracts may be awarded for delivery at different points.

Purchases of items regularly used in connection with school operation shall not be made in small quantities for the purpose of circumventing the law requiring competitive bids or quotations, but shall be purchased by contract whenever feasible. School boards shall have the authority, however, to award such contracts for supplies or equipment to be delivered to different points in the school district or county, to different bidders, when the best interests of the district or county warrant such action. Reasons for awarding such contracts to different bidders for different areas in the district shall be recorded on the minutes of the school board. In no event shall the price paid exceed the lowest and best bid received.

SOURCES: Codes, 1942, § 6231-09; Laws, 1964, ch. 396, § 9; Laws, 1980, ch. 440, § 22, eff from and after January 1, 1981.

RESEARCH REFERENCES

CJS. 78 C.J.S., Schools and School Districts §§ 583, 584.

§ 37-39-19. Repealed.

Repealed by Laws, 1981, ch. 306, § 6, eff from and after passage (approved Feb. 9, 1981).

[Codes, 1942, § 6231-09; Laws, 1964, ch. 396, § 9]

Editor's Note — Former Section 37-39-19 made it unlawful to submit split invoices to avoid competitive bidding requirements, and specified the penalties therefor.

§ 37-39-21. Bonds of purchasing agents.

The purchasing agent of any school board, before entering upon his official duties in such capacity, shall furnish a good and sufficient surety bond in the penal sum of Fifty Thousand Dollars ($50,000.00), with sufficient surety. Such bonds shall be payable, conditioned and approved in the manner provided by law, and shall be filed and recorded in the office of the clerk of the chancery court in which the school district is located. The premium on said bond shall be paid out of the school district(s) maintenance fund(s).

SOURCES: Codes, 1942, § 6231-08; Laws, 1964, ch. 396, § 8; Laws, 1976, ch. 462, § 5; Laws, 1986, ch. 492, § 127, eff from and after July 1, 1987.

ATTORNEY GENERAL OPINIONS

If an employee is acting in both capacities of principal and purchasing agent, one bond in the amount of $50,000 will not suffice. Such an employee must be covered for $25,000 for the duties of principal pursuant to Section 37-9-31 and $50,000 for the duties of a purchasing agent under Section 37-39-21 for a total coverage of $75,000. Middleton, April 26, 1996, A.G. Op. #96-0222.

Section 37-39-21 is written in the singular which would indicate that any and all purchase agents must be covered by an individual bond pursuant to Section 25-1-15(2). Middleton, April 26, 1996, A.G. Op. #96-0222.

The wording of 37-39-21 requires a purchase agent to be covered by an individual bond for $50,000. Under Section 25-33-1 a Notary Public is a separate office covered by an entirely different statutory scheme and such Notary would be required to provide an individual bond of $5,000 for the performance of this duty. Therefore a purchasing agent who also acts as a Notary Public would be required to provide two individual bonds the total amount of which would be $55,000. Middleton, April 26, 1996, A.G. Op. #96-0222.

§ 37-39-23. Joint purchases of supplies and services by school boards of public school districts authorized.

The school boards of all public school districts may, in their discretion, enter into an agreement, not inconsistent with the provisions of this chapter, to act jointly in the purchase of maintenance, operational and scholastic services, supplies and materials and equipment.

It is the purpose of this section to enable the school systems to achieve economies of scale through increased purchasing power to the end that the education tax revenues be utilized efficiently.

SOURCES: Laws, 1976, ch. 462, § 1; Laws, 1986, ch. 492, § 128; Laws, 2004, ch. 427, § 1, eff from and after July 1, 2004.

§ 37-39-25. Resolution authorizing joint purchases; joint purchasing agent.

(1) The school boards which choose to act jointly as authorized by section 37-39-23 shall adopt resolutions to that effect which shall be recorded on the minutes of the school boards and copies of which shall be filed with the clerk of the chancery court of the county in which such school districts are located.

(2) The school board may appoint a purchasing agent who shall be responsible, subject to the approval of the board, for all purchases of competitively priced services, materials and supplies. The purchasing agent shall be bonded in accordance with Section 37-39-21. The purchasing agent shall serve all of the school districts acting jointly. There shall not be a separate purchasing agent for the separate districts which are acting jointly.

(3) The purchasing agent for the county school boards shall arrange for purchase, storage and distribution of supplies and materials purchased jointly. The costs involved in purchase, transportation, storage, administration and any other activity regarding joint purchases by the school boards shall be shared among the participating districts on a pro rata basis.

SOURCES: Laws, 1976, ch. 462, § 2; Laws, 1980, ch. 440, § 23, eff from and after January 1, 1981.

CHAPTER 41

Transportation of Pupils

In General 37-41-1
Purchase of School Transportation Equipment and Employment of Drivers 37-41-81
Safety Council. [Repealed]

IN GENERAL

Sec.
37-41-1. Promulgation of rules and regulations; applicability of chapter.
37-41-2. Interference with operation of school bus; penalty.
37-41-3. Pupils entitled to transportation.
37-41-5. Transportation of children under extraordinary circumstances and conditions.
37-41-7. Laying out of routes within county; supplemental funds.
37-41-9 through 37-41-11. Repealed.
37-41-13. How routes are to be laid out.
37-41-15. Alteration of routes; emergency transportation.
37-41-17 and 37-41-19. Repealed
37-41-21. Prohibition on transporting certain pupils; exceptions.
37-41-23. Reports and records required.
37-41-25. False reports, lists or records; misdemeanor; criminal and civil penalties.
37-41-27. School buses may be used for special events and during emergencies; school buses may be used to transport citizens attending air show or historic commemorative event on military base or military park under certain circumstances; transportation of students in vehicles other than school buses.
37-41-29. Private transportation of pupils shall be replaced by public transportation; continuation of existing or approval of new private contracts under certain circumstances; contents of contract.
37-41-31. Awarding of private transportation contracts.
37-41-33. Repealed.
37-41-35. Operation of school bus garage and repair shop.
37-41-37 through 37-41-41. Repealed.
37-41-42. Repealed.
37-41-43. Identification of publicly-owned school district buses.
37-41-45. Police may stop publicly-owned school district bus to ascertain whether its use is authorized by law.
37-41-47. Speed of school bus; penalty.
37-41-49. Violation of safety regulations of state board of education; penalty.
37-41-51. Repealed.
37-41-53. Inspections and safety requirements for motor vehicles used for public school district transportation; condemnation of unsafe school district buses; penalties for operation of condemned bus.
37-41-55. Duties of driver of school transportation vehicle used to transport pupils upon approaching railroad crossing or highway intersection.
37-41-57. Promulgation of regulations governing design and operation of school buses.
37-41-59. Mounting camera on school bus retractable, hand-operated stop sign.
37-41-61. Information campaign on school bus safety.

§ 37-41-1. Promulgation of rules and regulations; applicability of chapter.

The State Board of Education is authorized, empowered and directed to promulgate rules and regulations relating to the transportation of students enrolled in the public school districts, including rules and regualtions for:

(a) Setting standards for public school district bus routes;

(b) Setting standards for public school district buses;

(c) Setting standards for public school district bus drivers;

(d) Formulating procedure for selecting public school district bus drivers;

(e) Formulating courses of training for public school district bus drivers and mechanics, and assist in administering and financing such courses;

(f) Providing operation procedure for public school district buses to insure safety of pupils;

(g) Formulating specifications for use in purchasing public school district buses; getting bids on public school district buses; equipment and supplies; and fixing prices based upon said bids which school districts may not exceed in purchasing said equipment;

(h) Formulating specifications for use by school districts in purchasing used school buses; and

(i) Providing a system of records and reports for the purpose of carrying out the provisions of Sections 37-41-1 through 37-41-51, and providing the superintendent of schools with a sufficient supply of report forms.

All rules and regulations adopted and promulgated by the State Board of Education relating to school district bus drivers shall also be applicable to drivers of privately owned buses transporting public school district children.

All rules and regulations adopted and promulgated by the State Board of Education pursuant to the authority conferred by this section shall be spread at large upon the minutes of the State Board of Education and copies thereof shall be furnished to all school boards not less than thirty (30) days prior to the effective date of such rules and regulations.

The provisions of this chapter are applicable to school districts and the transportation of students enrolled in public school districts. Charter schools authorized by the Mississippi Charter School Authorizer Board are exempt from the provisions of this chapter.

SOURCES: Codes, 1942, § 6336-11; Laws, 1953, Ex Sess, ch. 15, § 10; Laws, 1973, ch. 339, § 1; Laws, 1974, ch. 499; Laws, 1981, ch. 482, § 2; Laws, 1986, ch. 492, § 129; Laws, 2004, ch. 357, § 10; Laws, 2010, ch. 483, § 1; Laws, 2013, ch. 497, § 71, eff from and after July 1, 2013.

Editor's Note — Section 37-41-51 referred to in (i) was repealed by Laws, 1982, ch. 354, § 30, eff from and after July 1, 1982.

Laws of 2011, ch. 481, § 8, provides:

"SECTION 8. (1) There is created the Mississippi School Bus Safety Task Force which shall be composed of nine (9) members as follows:

"(a) Three (3) members appointed by the Speaker of the House of Representatives, one (1) of whom shall be appointed from the membership of the House of Representatives;

"(b) Three (3) members appointed by the Lieutenant Governor, one (1) of whom shall be appointed from the membership of the Senate; and

"(c) Three (3) members appointed by the Governor.

"(2) At its first meeting, the task force shall elect a chairman and vice chairman from its membership and shall adopt rules for transacting its business and keeping records. Members of the task force shall receive a per diem in the amount provided in Section 25-3-69 for each day engaged in the business of the task force. Members of the task force other than legislative members shall receive reimbursement for travel expenses incurred while engaged in official business of the task force in accordance with Section 25-3-41; legislative members of the task force shall receive the expense allowance provided for in Section 5-1-47.

"(3) The duties of the task force shall be to:

"(a) Make a comprehensive study of school bus safety designs and technology related to safety and law enforcement.

"(b) Examine and study approaches taken by other states in the implementation and costs of school bus safety.

"(c) Research and develop recommendations relating to school bus safety.

"(4) The task force shall publish its findings and recommendations with any proposed legislation in a report to the Governor and the Legislature to be made on or before December 31, 2011.

"(5) The task force shall stand dissolved on January 1, 2012."

The introductory paragraph is set out as it appears in the amendment by Laws 2013, ch. 497.

Amendment Notes — The 2013 amendment inserted "relating to the transportation of students enrolled in the public school districts, including rules and regulations" at the end of the introductory paragraph; inserted "district" following "public school" throughout; and added the last paragraph.

Cross References — Power and authority of state board of education to promulgate regulations governing design and operation of school buses generally, see § 37-41-57.

Power and authority of state board of education with respect to this chapter, see § 37-41-103.

School buses to be equipped with white flashing strobe lights in accordance with standards established by department as authorized by this section, see § 63-7-23.

JUDICIAL DECISIONS

1. In general.

A school board's purchase of two deluxe commercial "activity buses" without approval from the State Department of Education was unlawful since §§ 37-41-1, -81, -85, and -101 require state approval before purchasing vehicles for the transportation of pupils; however, personal liability for the illegal expenditures would not be imposed on board members since a school district is empowered with the authority to purchase transportation equipment, so that the school board's object was lawful and there was merely a mistaken exercise in legal power in that state approval was not sought. Smith v. Dorsey, 599 So. 2d 529 (Miss. 1992).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 278, 279.

CJS. 78A C.J.S., Schools and School Districts §§ 1030-1036.

Practice References. Mississippi School Laws Annotated (Michie).

Federal Education Laws and Regulations (Michie).

Vacca and Bosher, Law and Education: Contemporary Issues and Court Decisions (Matthew Bender).

Rapp, Education Law (Matthew Bender).

§ 37-41-2. Interference with operation of school bus; penalty.

(a) It shall be unlawful for any individual, other than a student scheduled to be a passenger upon that particular bus, a member of the public school administration or faculty, or a law enforcement official, to directly or indirectly interfere in any way with passenger ingress and egress or the operation, including unauthorized boarding thereof, of a bus used in public school student transportation unless permission has been obtained as prescribed by pertinent rules and regulations promulgated by the state board of education or the local school authorities.

(b) Upon conviction of violation of any provision of this section, such individual shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed five hundred dollars ($500.00), imprisonment in the county jail for a period not to exceed six (6) months, or both. Any person under the age of seventeen (17) who violates any provision of this section shall be treated as delinquent within the jurisdiction of the youth court.

SOURCES: Laws, 1973, ch. 339, § 2, eff from and after June 1, 1973.

Cross References — Youth Court Law, see § 43-21-101 et seq.

Imposition of standard state assessment in addition to court imposed fines or other penalties for misdemeanor violation, see § 99-19-73.

§ 37-41-3. Pupils entitled to transportation.

Pupils of legal school age, which shall include kindergarten pupils, and in actual attendance in the public schools who live a distance of one (1) mile or more by the nearest traveled road from the school to which they are assigned by the school district in which they are enrolled shall be entitled to transportation within the meaning of this chapter. Nothing contained in this section shall be construed to bar any child from such transportation where he or she lives less than one (1) mile and is on the regular route of travel of a school bus and space is available in such bus for such transportation. No state funds shall be paid for the transportation of children living within one (1) mile of the school, except as otherwise provided in this chapter, and such children shall not be included in transportation reports. In the development of route plans, economy shall be a prime consideration. There shall be no duplication of routes except in circumstances where it is totally unavoidable. The State Department of Education shall have authority to investigate school bus routing when there is reason to believe the provisions of this statute are being violated. The State Board of Education shall have authority to withhold transportation funds when school districts fail to correct unnecessary route duplication. Provided further, that all school districts are hereby authorized to lease or contract with any public or private individual, partnership, corporation, association, agency or other organization for the implementation of transportation of pupils as provided for in this section.

The school boards may provide transportation to such crippled and physically handicapped children as may be designated by such boards, when the failure to do so would result in undue hardship, even though the children are not otherwise entitled to transportation under the provisions of this chapter. The State Department of Education shall require all school districts during the 1993-1994 school year to equip school buses with properly designed seat belts to protect such physically handicapped children, and school districts are authorized to expend funds therefor from nonminimum program or other sources.

Where space is available, students attending junior colleges shall be allowed transportation on established routes in district-owned buses. However, no additional funds shall be allocated or expended for such purposes, and such persons shall not be included in transportation reports.

Children enrolled in special or alternative programs approved by school boards may be provided transportation even though such children are not otherwise entitled to transportation under the provisions of this chapter. No additional funds shall be allocated or expended for such purpose, and such children shall not be included in transportation reports.

SOURCES: Codes, 1942, § 6336-04; Laws, 1953, Ex Sess, ch. 15, § 3; Laws, 1959, Ex Sess, ch. 29, § 3; Laws, 1970, ch. 374, § 3; Laws, 1971, ch. 339, § 1; Laws, 1974, ch. 407; Laws, 1978, ch. 483, § 1; Laws, 1982, ch. 354, § 1; Laws, 1986, ch. 492, § 130; Laws, 1988, ch. 487, § 6; Laws, 1993, ch. 379, § 1; Laws, 1993, ch. 602, § 11; Laws, 2013, ch. 497, § 72, eff from and after July 1, 2013.

Editor's Note — Laws of 1990, Chapter 589, § 35, amended this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990 declare that sufficient funds were dedicated and made available for the implementation of Chapter 589. Funds, however, were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the amendatory provisions have not been printed in this volume. Text of the amendment can be found in the Advance Sheet Acts of the 1990 Legislative Session published by the Secretary of State's Office, Jackson, Mississippi.

Amendment Notes — The 2013 amendment inserted "by the school district in which they are enrolled" preceding "shall be entitled to transportation within the meaning of this chapter" at the end of the first sentence in the first paragraph.

Cross References — Authorization for transportation of other pupils to public schools under extraordinary circumstances, see § 37-41-5.

Contract entered into by school district for operation, rental or leasing of public school buses must stipulate in contract that entity providing school bus must place on bus required district-identifying signage, see § 37-41-43.

JUDICIAL DECISIONS

1. In general.
2. Use of other than state funds.

1. In general.

Section 6336-04, Code 1942, provides that no pupils who live within the corporate limits of a municipality and who are assigned to a school within the corporate limits shall be considered as eligible for transportation supported or subsidized by state funds. Sutton v. City of Hattiesburg, 367 F. Supp. 1154 (S.D. Miss. 1973).

For children to be entitled to bus transportation between their home and their school they must live a mile or more from the school by the nearest travelled road, and the distance is to be determined from the door of their residence rather than from the intersection of their private driveway with a public road. Madison County Bd. of Educ. v. Grantham, 250 Miss. 767, 168 So. 2d 515 (1964).

2. Use of other than state funds.

Intra-city busing program provided for from accumulated reserves and a separate transportation account funded solely by local income was not in conflict with this statute as no state funds were used, and the state was enjoined from interfering with the school board's use of non-state derived funds to pay for said busing. Singleton v. Jackson Mun. Separate Sch. Dist., 509 F.2d 818 (5th Cir. 1975).

Where a municipal separate school district has not spent and does not contemplate spending any funds derived from state sources on intra-city bus transportation of pupils, it has not violated this section [Code 1942, § 6336-04]. Singleton v. Jackson Mun. Separate Sch. Dist., 332 F. Supp. 984 (S.D. Miss. 1971), aff'd, 509 F.2d 818 (5th Cir. 1975).

ATTORNEY GENERAL OPINIONS

A school district is authorized to lease a school bus or buses if the school board enters a resolution upon the minutes of the board that such is deemed necessary for the implementation of transportation of pupils; however, no such lease agreement may bind successors in office. Thompson, Nov. 21, 1991, A.G. Op. #91-0873.

It is within the discretion of a school district to designate a day care center or home as a bus stop on an established and structured bus route and on a space available basis to transport district students from that day care facility or home to school and from school back to that facility or home. Carnathan, Nov. 14, 1997, A.G. Op. #97-0694.

A child not enrolled and in attendance at a school in a particular school district is not legally entitled to transportation on any school bus within that district; nevertheless, it is within the discretion of the school board to allow the pre-school child of a bus driver to ride on the driver's bus route each day. Necaise, Mar. 14, 2003, A.G. Op. #03-0011.

In undertaking the responsibility to lay out routes for the children and to provide transportation, the school board may take into consideration such extenuating practical circumstances as the condition of the roads, whether the bus has space for turning around, etc. A school district is not required to travel a private road. Pickett, Aug. 27, 2004, A.G. Op. 04-0384.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 267, 280.

CJS. 78A C.J.S., Schools and School Districts §§ 1030-1036.

§ 37-41-5. Transportation of children under extraordinary circumstances and conditions.

In addition to public school students or pupils authorized to be transported to the public schools by virtue of Section 37-41-3, the local school board, with the concurrence of the board of supervisors, in their discretion and with local tax funds or other local contributions or support exclusively and without state appropriations, may provide transportation for students or pupils to the public schools whenever the within described boards or officers find that extraordinary circumstances and conditions are prevalent in said school district in regard to such matters as the public health and safety, school facilities, location of the school site, unusual economic growth and population expansion, newly expanded municipal corporation limits, the general welfare, and any other emergency facts and conditions which may be deemed by said authorities to be in the best interest of the political subdivision.

SOURCES: Codes, 1942, § 6336-31; Laws, 1964, ch. 393; Laws, 1982, ch. 354, § 2; Laws, 1986, ch. 492, § 131, eff from and after July 1, 1987.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 267, 280.

CJS. 78A C.J.S., Schools and School Districts §§ 1030-1036.

§ 37-41-7. Laying out of routes within county; supplemental funds.

The local school board is hereby authorized, empowered and directed to lay out all transportation routes and provide transportation for all school children who are entitled to transportation within their respective counties and school districts.

Any school district may, in the discretion of the school board, expend funds from any funds available to the school district other than minimum education program funds, including the amounts derived from district tax levies, sixteenth section funds, and all other available funds, for the purpose of supplementing funds available to the school board for paying transportation costs, not covered by minimum education program funds.

SOURCES: Codes, 1942, § 6336-01; Laws, 1953, Ex Sess, ch. 15, § 1; Laws, 1954, ch. 274, § 1; Laws, 1982, ch. 354, § 3; Laws, 1986, ch. 492, § 132; Laws, 2010, ch. 483, § 2, eff from and after July 1, 2010.

Cross References — Transportation of students attending junior colleges, see § 37-29-79.

Power of school boards of trustees to change transportation routes or facilities when schools are closed pursuant to order of governor, see § 37-65-13.

Power of school boards of trustees to change transportation routes or facilities when schools are closed pursuant to order of trustees, see § 37-65-111.

Transportation of schoolchildren attending teachers demonstration and practice schools, see § 37-131-5.

JUDICIAL DECISIONS

1. In general.

Where the legislature passed laws abolishing all school districts but provided that the districts should continue to exist with all present powers until reorganization and consolidation of school districts could be effected, it was the intent of the legislature to preserve all existing laws until reorganization had been completed so the court could compel the county school board and the county superintendent of education to provide transportation for children of a school district who were legally enrolled in a school located in another district. Grenada County Sch. Bd. v. Provine, 224 Miss. 585, 81 So. 2d 694 (1955).

§§ 37-41-9 through 37-41-11. Repealed.

Repealed by Laws, 1982, ch. 354, § 30, eff from and after July 1, 1982.

§ 37-41-9. [Codes, 1942, § 6336-02; Laws, 1953, Ex Sess, ch. 15, § 2; Laws, 1954, ch. 274, § 2]

§ 37-41-11. [Codes, 1942, § 6336-03; Laws, 1958, ch. 299; Laws, 1960, ch. 306, § 1; Laws, 1962, ch. 349]

Editor's Note — Former § 37-41-9 provided for laying out of routes within municipal separate school district with added territory and for supplemental funds.

Former § 37-41-11 provided for transportation of pupils in certain municipal separate school districts.

§ 37-41-13. How routes are to be laid out.

All routes shall be laid out so as to place all pupils entitled to transportation within a reasonable distance of same. No child entitled to transportation shall be required to walk a greater distance than one mile to reach the vehicle of transportation in the morning or to reach his home in the afternoon.

SOURCES: Codes, 1942, § 6336-08; Laws, 1953, Ex Sess, ch. 15, § 7.

JUDICIAL DECISIONS

1. In general.

For children to be entitled to bus transportation between their home and their school they must live a mile or more from the school by the nearest travelled road, and the distance is to be determined from the door of their residence rather than from the intersection of their private driveway with a public road. Madison County Bd. of Educ. v. Grantham, 250 Miss. 767, 168 So. 2d 515 (1964).

ATTORNEY GENERAL OPINIONS

It is within the discretion of a school district to designate a day care center or home as a bus stop on an established and structured bus route and on a space available basis to transport district students from that day care facility or home to school and from school back to that facility or home. Carnathan, Nov. 14, 1997, A.G. Op. #97-0694.

In undertaking the responsibility to lay out routes for the children and to provide transportation, the school board may take into consideration such extenuating practical circumstances as the condition of the roads, whether the bus has space for turning around, etc. A school district is not required to travel a private road. Pickett, Aug. 27, 2004, A.G. Op. 04-0384.

§ 37-41-15. Alteration of routes; emergency transportation.

The school boards are hereby authorized to make necessary alterations in transportation routes, or to establish supplementary transportation routes in order to meet emergencies which may arise during the school year, such as the destruction of a school building by fire or other causes, an unanticipated increase in the number of school children in the school district during the school year, or any other emergency. Such emergency transportation shall be continued only so long as is necessary by reason of the emergency conditions.

SOURCES: Codes, 1942, § 6336-09; Laws, 1953, Ex Sess, ch. 15, § 8; Laws, 1982, ch. 354, § 4; Laws, 1986, ch. 492, § 133, eff from and after July 1, 1987.

§§ 37-41-17 and 37-41-19. Repealed.

Repealed by Laws of 2010, ch. 483, § 7, effective from and after July 1, 2010.

§ 37-41-17. [Codes, 1942, § 6336-05; Laws, 1953, Ex Sess, ch. 15, § 4; Laws, 1968, ch. 401, § 1; Laws, 1980, ch. 339, § 1; Laws, 1982, ch. 354, § 5; Laws, 1986, ch. 492, § 134.]

§ 37-41-19. [Codes, 1942, § 6336-06; Laws, 1953, Ex Sess, ch. 15, § 5; Laws, 1968, ch. 402, § 1; Laws, 1980, ch. 339, § 2; Laws, 1982, ch. 354, § 6; Laws, 1986, ch. 492, § 135.]

Editor's Note — Former §§ 37-41-17 and 37-41-19 provided standards for school district transportation plans.

§ 37-41-21. Prohibition on transporting certain pupils; exceptions.

It shall be unlawful to transport pupils who are not entitled to such transportation, or to transport pupils from one (1) district to another if their grade or grades are taught in a school within the district wherein they reside, unless the transfer of such children from the district in which they reside to such districts shall have been approved in the manner provided by law. It shall be further unlawful for the school board to expend funds from any source whatsoever for the transportation of pupils from one (1) district to another district if their grade or grades are taught in a school within the district wherein they reside, unless the transfer of such children from the district in which they reside to such other district shall have been approved in the manner provided by law.

SOURCES: Codes, 1942, § 6336-07; Laws, 1953, Ex Sess, ch. 15, § 6; Laws, 1958, ch. 313; Laws, 1982, ch. 354, § 7; Laws, 1986, ch. 492, § 136; Laws, 2010, ch. 483, § 3, eff from and after July 1, 2010.

Editor's Note — Laws of 1990, Chapter 589, § 50, amended this section effective July 1, 1990, and provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 589. Funds, however, were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi the amendatory provisions have not been printed in this volume. Text of the amendment can be found in the Advance Sheet Acts of the 1990 Legislative Session published by the Secretary of State's Office, Jackson, Mississippi.

§ 37-41-23. Reports and records required.

The State Board of Education shall prescribe keeping and preservation of all records and the making of all reports and the description thereof as the board may deem necessary for the efficient operation of the school district transportation system of this state. It shall be unlawful for any pay certificate to be issued to any school district carrier or bus driver until all such reports required by the regulations of the State Board of Education shall have been filed in accordance with said regulations. Any person making a false list, report, or record required by the aforesaid rules and regulations of the State Board of Education shall be subject to the penalties provided by Section 37-41-25.

SOURCES: Codes, 1942, § 6336-10; Laws, 1953, Ex Sess, ch. 15, § 9; Laws, 1962, ch. 350; Laws, 1966, ch. 414, § 1; Laws, 2013, ch. 497, § 73, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment inserted "district" in the first and second sentences.

§ 37-41-25. False reports, lists or records; misdemeanor; criminal and civil penalties.

Any superintendent of schools, member of the school board, superintendent, principal or carrier, or bus driver, who shall knowingly make any false report, list or record, or who shall knowingly make use of any false report, list or record concerning the number of school children being transported or entitled to be transported in any county or school district shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for a period not to exceed sixty (60) days, or by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00), or by both such fine and imprisonment, in the discretion of the court. In addition, any such person shall be civilly liable for all amounts of public funds which are illegally, unlawfully or wrongfully expended or paid out by virtue of or pursuant to such false report, list or record, and upon conviction or adjudication of civil liability hereunder such person shall forfeit his license to teach for a period of three (3) years, if such person is the holder of such a license. Any suit to recover such funds illegally, unlawfully, or wrongfully expended or paid out may be brought in the name of the State of Mississippi by the Attorney General or the proper district attorney or county attorney. In the event such suit be brought against a person who is under bond, the sureties upon such bond shall likewise be liable for such amount illegally, unlawfully or wrongfully expended or paid out.

SOURCES: Codes, 1942, § 6336-14; Laws, 1953, Ex Sess, ch. 15, § 13; Laws, 1982, ch. 354, § 8; Laws, 1986, ch. 492, § 137; brought forward without change, Laws, 2013, ch. 497, § 74, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment brought the section forward without change.

Cross References — Imposition of standard state assessment in addition to court imposed fines or other penalties for misdemeanor violation, see § 99-19-73.

§ 37-41-27. School buses may be used for special events and during emergencies; school buses may be used to transport citizens attending air show or historic commemorative event on military base or military park under certain circumstances; transportation of students in vehicles other than school buses.

(1) The local school boards, subject to rules and regulations promulgated by the State Board of Education, may permit the use of publicly owned school buses for the transportation of participating students, teachers, coaches and sponsors in connection with athletic events, events of boys' and girls' clubs, events of Future Farmers of America or 4-H Clubs and special events in connection with the schools which the boards may consider a part of the educational program. The local school boards, subject to rules and regulations promulgated by the State Board of Education, may permit the use of publicly owned school buses for the transportation of citizens for grand jury and other jury functions upon order of the court or as considered necessary by the school board during natural or man-made emergencies, hurricanes, tornadoes, floods and other acts of God. The local school boards, subject to rules and regulations promulgated by the State Board of Education, may permit the use of publicly owned school buses for the transportation of citizens attending an air show or historic commemorative event held on a military base or military park located in the school district; provided that such determination shall be made upon the minutes of the school board and shall include an agreement with the military base or military park that it will indemnify and hold the school district harmless in any action regarding such transportation.

(2)(a) Local school boards may regularly permit the use of motor vehicles other than school buses when the transportation is for trips to and from school sites or agricultural education sites or for trips to and from agricultural education-related events or competitions, but is not for customary transportation between a student's residence and such sites.

(b) When the transportation of students is provided, as authorized in this subsection, in a vehicle other than a school bus that is owned, operated, rented, contracted, or leased by a school district or charter school, the following provisions shall apply:

(i) The vehicle must be a passenger car or multipurpose passenger vehicle or truck, as defined in 49 C.F.R. Part 571, designed to transport fewer than ten (10) students. Students must be transported in designated seating positions and must use the occupant crash protection system provided by the manufacturer unless the student's physical condition prohibits such use.

(ii) An authorized vehicle may not be driven by a student on a public right-of-way. An authorized vehicle may be driven by a student on school or private property as part of the student's educational curriculum if no other student is in the vehicle.

(iii) The driver of an authorized vehicle transporting students must maintain a valid driver's license and must comply with the requirements of the school district's locally adopted safe driver plan, which includes review of driving records for disqualifying violations.

(iv) The local school board must adopt a policy that addresses procedures and liability for trips under this paragraph, including a provision that school buses are to be used whenever practical and specifying consequences for violation of the policy.

SOURCES: Codes, 1942, § 6336-12; Laws, 1953, Ex Sess, ch. 15, § 11; Laws, 1968, ch. 403, § 1; Laws, 1975, ch. 304; Laws, 1982, ch. 354, § 9; Laws, 1986, ch. 492, § 138; Laws, 2011, ch. 404, § 1; Laws, 2013, ch. 562, § 2; Laws, 2014, ch. 531, § 1, eff from and after July 1, 2014.

Amendment Notes — The 2013 amendment in the last sentence of (1), inserted "or historic commemorative event" and twice inserted "or military park."

The 2014 amendment added (2); and inserted "events of Future Farmers of America or 4-H Clubs" following "events of boys' and girls' clubs" near the end of the first sentence in (1).

ATTORNEY GENERAL OPINIONS

Where one school district's bus carrying band members or athletes breaks down within another district, it is within discretion of second district's board to determine that such students are participating in connection with athletic events and/or special events in connection with schools and authorize loan of bus; similarly, in event of break-down of another district's school bus within school board's boundaries, it is permissible for one school district to loan school bus to another district. Bailey, Oct. 14, 1992, A.G. Op. #92-0785.

Whether use of certain school buses for transportation of persons attending International Science and Engineering Fair is permitted by Miss. Code § 37-41-27 depends on whether Fair was considered part of educational program of public school, determination which must be made by local school boards, subject to review by appropriate state officials and court of competent jurisdiction taking into consideration whether or not school district or its students participated in local or regional contests sponsored by this organization; such determination must be made upon minutes of school board, and school district may wish to state that school bus and its driver are under dominion and control of separate entity while on loan to that entity; it is also advisable to require agreement with organization that it will indemnify and hold school district harmless. Dukes, Jan. 4, 1993, A.G. Op. #92-0978.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 278, 279.

CJS. 78A C.J.S., Schools and School Districts §§ 1030-1036.

§ 37-41-29. Private transportation of pupils shall be replaced by public transportation; continuation of existing or approval of new private contracts under certain circumstances; contents of contract.

(1) It shall be the duty of the school boards, as existing private contracts providing for transportation of school pupils expire, to replace such private transportation with publicly owned transportation unless publicly owned transportation is deemed impractical. The school boards may acquire, when so requested by holders of private transportation contracts, from such holders of private transportation contracts, all buses which, in the opinion of the school boards, can be practicably operated as units of the public transportation system. The actual market value shall be paid therefor, said value to be determined by an appraisal by three (3) experienced and impartial citizens, the selection of whom shall be mutually agreed upon by the parties thereto.

(2) It shall be the duty of the school boards to approve the continuation of present private contracts providing for transportation of school pupils, or to approve new contracts entered into whenever it is deemed that the needs of the pupils can best be served by such method of transportation. However, in no case shall the amount allotted per pupil from state funds for transportation in facilities provided by private contracts exceed the amount allowed per pupil from state funds for public transportation in the same county and district.

(3) Before any money is allocated or disbursed from the state transportation funds to any school board which is transporting children under private contracts, written contracts shall be entered into by and between the respective carriers and school boards. A copy of each contract shall be filed with the superintendent of schools. The aforesaid contract shall contain, at a minimum, the cost of services to be provided to include all necessary bus routes as well as the cost of school-approved activities such as field trips, the length of the contract, the terms of the utilization of existing pupil transportation facilities and existing fleet of buses, if applicable, the necessary types and amounts of limits of insurance that will protect the district, to include Workers' Compensation Insurance, and the stipulation for the placement of district-identifying signage on all buses under contract, as required under Section 37-41-43. Certificates of insurance shall provide that a thirty-day prior notice of cancellation will be given to the district. The contractor shall comply with all state laws and the State Board of Education policies pertaining to pupil transportation services, including the requirement that (a) school buses used by such contractor shall comply with the Mississippi Minimum Standards for School Buses established by the State Board of Education, and (b) all school bus drivers employed by such contractor shall be trained and certified by the State Department of Education.

(4) Local school boards are not required to file a copy of any private contract for the transportation of exceptional children or the transportation of children under extraordinary circumstances with the State Board of Education.

SOURCES: Codes, 1942, §§ 6336-13, 6336-16; Laws, 1953, Ex Sess, ch. 15, §§ 12, 15; Laws, 1966, ch. 415, § 1; Laws, 1982, ch. 354, § 10; Laws, 1986, ch. 492, § 139; Laws, 1988, ch. 466, § 4; Laws, 2004, ch. 357, § 11; Laws, 2010, ch. 483, § 4; Laws, 2014, ch. 486, § 2, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment redesignated former undesignated paragraphs as (1) through (4); and added "and the stipulation for the placement ... under Section 37-41-43" at the end of the third sentence of (3).

Cross References — Contract for transportation of children by private owned vehicles must stipulate that entity providing the transportation services must place on bus required district-identifying signage, see § 37-41-43.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 278, 279.

16A Am. Jur. Legal Forms 2d, Schools Forms 229:353 et seq., (optional provisions of contract for transportation of school pupils providing for sale of bus to school on termination of contract).

CJS. 78A C.J.S., Schools and School Districts §§ 1044-1051.

§ 37-41-31. Awarding of private transportation contracts.

(1) In each case where pupils are transported to and from the public schools in the school districts of this state in privately owned vehicles, the contract for such transportation shall be let to the lowest responsible bidder who is able to furnish a solvent bond for the faithful performance of his contract. This shall be done after each route over which such pupils are to be transported has been laid out and established as provided in this chapter. Such contracts shall be awarded upon receipt of sealed bids or proposals after the time and place of letting such contracts and the manner of bidding have been duly advertised in some newspaper published in the county in accordance with the procedures provided in Section 31-7-13(c). If no newspaper is published in the county, then the advertisement shall be made by publication for the required time in some newspaper having a general circulation therein, and, in addition, by posting a copy thereof for that time in at least three (3) public places in the county, one (1) of which shall be at the county courthouse in each judicial district of the county. The awarding of all such contracts shall, however, in all respects be subject to the provisions of Section 37-41-29.

(2) Private contracts for the transportation of exceptional children, as defined in Section 37-23-3, may be negotiated by the local school board without the necessity of the advertising for or taking of bids. The same may apply under extraordinary circumstances where regular transportation is considered to be impractical. The local school board may negotiate and contract for the transportation described in this paragraph so long as the local school board

complies with the school transportation regulations promulgated by the State Board of Education.

(3) Contracts shall be made for four (4) years, at the discretion of the local school board and shall include the stipulation for the placement of district-identifying signage on all buses under contract, as required under Section 37-41-43. Any and all bids may be rejected. At the expiration of any transportation contract, if the school board believes a route should remain substantially as established and finds that the carrier thereon has rendered efficient and satisfactory services it may extend the contract for not more than four (4) years, subject, however, to the provisions of Section 37-41-29.

SOURCES: Codes, 1942, § 6336-16; Laws, 1953, Ex Sess, ch. 15, § 15; Laws, 1966, ch. 415, § 1; Laws, 1982, ch. 354, § 11; Laws, 1986, ch. 492, § 140; Laws, 1988, ch. 466, § 5; Laws, 1997, ch. 484, § 1; Laws, 2003, ch. 539, § 6; Laws, 2010, ch. 483, § 5; Laws, 2013, ch. 497, § 75, Laws, 2014, ch. 486, § 3, eff from and after July 1, 2014.

Amendment Notes — The 2013 amendment inserted "the school districts of" in the first sentence of the first paragraph.

The 2014 amendment redesignated former undesignated paragraphs as (1) through (3); and added "and shall include the stipulation ... under Section 37-41-43" at the end of the first sentence in (3).

Cross References — Contract for transportation of children by private owned vehicles must stipulate that entity providing the transportation services must place on bus required district-identifying signage, see § 37-41-43.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 281, 282.

22 Am. Jur. Pl & Pr Forms (Rev), Schools, Forms 93, 94 (complaint, petition, or declaration by bus operator for breach of contract to transport pupils).

CJS. 78A C.J.S., Schools and School Districts §§ 1044-1051.

§ 37-41-33. Repealed.

Repealed by Laws, 1982, ch. 354, § 30, eff from and after July 1, 1982.

[Codes, 1942, § 6336-06; Laws, 1953, Ex Sess, ch. 15, § 5; Laws, 1968, ch. 402, § 1]

Editor's Note — Former § 37-41-33 required that advertisements for bids and transportation contracts contain proper route number reference.

§ 37-41-35. Operation of school bus garage and repair shop.

In every school district of this state having district-owned school buses, the school board may establish, maintain and operate a school bus garage or shop for the servicing, repair and maintenance of such county-owned or district-owned buses. Two (2) or more counties or school districts are authorized, in the discretion of the respective school boards thereof, jointly to establish, maintain and operate a school bus garage or shop for the servicing, repair and maintenance of such county-owned or district-owned buses. All of such garages or shops shall be established, maintained and operated under such rules and regulations as may be promulgated by the State Board of Education. All expenses incurred in acquiring land, purchasing, renting or constructing buildings, purchasing equipment, and all other expenses incurred in connection with the establishing, operation and maintenance of such garages or shops, may be paid from county or district transportation funds. However, before any county or school district shall expend such transportation funds for the purchase of land, or the purchase, rental or construction of buildings, or other permanent improvements in connection with such garages or shops, such proposed expenditures shall be submitted to and approved by the State Board of Education in accordance with the applicable rules and regulations of said board. Where maintenance shops are operated by the board of supervisors or the governing authorities of a municipality, school boards may, by agreement with the board of supervisors or the governing authorities of a municipality provide for the maintenance of school buses in the maintenance shops operated by said boards of supervisors or governing authorities of a municipality and may contribute to the support and expense of said shops as they may deem appropriate, subject to the approval of the State Board of Education. School boards may contract with Head Start Programs to provide maintenance services for buses operated by Head Start and may accept financial contributions from Head Start Programs to support the expense of operating their respective school district vehicle maintenance facilities. All such contractual agreements with Head Start Programs shall be subject to the approval of the State Board of Education.

SOURCES: Codes, 1942, § 6336-15; Laws, 1953, Ex Sess, ch. 15, § 14; Laws, 1982, chs. 354, § 12; 412; Laws, 1986, ch. 492, § 141; Laws, 1992, ch. 472, § 1, eff from and after July 1, 1992.

Federal Aspects — Head Start Program, see 42 USCS §§ 9831 et seq.

§§ 37-41-37 through 37-41-41. Repealed.

Repealed by 1992, ch. 491, § 19, eff from and after passage (approved May 12, 1992); and shall stand repealed from and after October 1, 1993.

§ 37-41-37. [Codes, 1942, § 6336-19; Laws, 1953, Ex Sess, ch. 15, § 18; 1962, ch. 351; Laws, 1964, ch. 394, § 1; Laws, 1970, ch. 375, § 1; Laws, 1972, ch. 500, § 1; Laws, 1982, ch. 354, § 13, repealed, Laws, 1984, ch. 495, § 37, reenacted and amended, Laws, 1985, ch. 474, § 32; Laws, 1986, ch. 438, § 17, Laws, 1986, ch. 492, § 142; Laws, 1987, ch. 483, § 22; Laws, 1988, ch. 442, § 19; Laws, 1989, ch. 537, § 18; Laws, 1990, ch. 518, § 19; Laws, 1990, ch. 535, § 7; Laws, 1991, ch. 618, § 18]

§ 37-41-39. [Codes, 1942, § 6336-19; Laws, 1953, Ex Sess, ch. 15, § 18; Laws, 1962, ch. 351; Laws, 1964, ch. 394, § 1; Laws, 1970, ch. 375, § 1; Laws, 1972, ch. 500, § 1; Laws, 1974, ch. 436; Laws, 1982, ch. 354, § 14; repealed, Laws, 1984, ch. 495, § 37; reenacted and amended, Laws, 1985, ch. 474, § 33; Laws, 1986, ch. 438, § 18; Laws, 1986, ch. 492, § 143; Laws, 1987, ch. 483,

§ 23; Laws, 1988, ch. 442, § 20; Laws, 1989, ch. 537, § 19; Laws, 1990, ch. 518, § 20; Laws, 1990, ch. 535, § 8; Laws, 1991, ch. 618, § 19]

§ 37-41-41. [Codes, 1942, § 6336-19; Laws, 1953, Ex Sess, ch. 15, § 18; Laws, 1962, ch. 351; Laws, 1964, ch. 394, § 1; Laws, 1970, ch. 375, § 1; Laws, 1972, ch. 500, § 1; Laws, 1974, ch. 435; Laws, 1981, ch. 359, § 1; Laws, 1982, ch. 354, § 15; repealed, Laws, 1984, ch. 495, § 37; reenacted and amended, Laws, 1985, ch. 474, § 34; Laws, 1986, ch. 438, § 19; Laws, 1986, ch. 492, § 144; Laws, 1987, ch. 483, § 24; Laws, 1988, ch. 442, § 21; Laws, 1989, ch. 537, § 20; Laws, 1990, ch. 518, § 21; Laws, 1990, ch. 535, § 9; Laws, 1991, ch. 618, § 20]

Editor's Note — Former § 37-41-37 was entitled: Suits for damages arising out of operation of school buses; settlement; legal representation.

Former § 37-41-39 was entitled: Accident contingent fund.

Former § 37-41-41 was entitled: Payment of claims; limitation on amount of claims.

§ 37-41-42. Repealed.

Repealed by Laws 1996, ch. 428, § 1, eff. June 30, 1997.

[Laws, 1994, ch. 617, § 1; Laws, 1995, ch. 312, § 1; Laws, 1996, ch. 428, § 1]

Editor's Note — Former § 37-41-42 related to the payment of claims arising under former §§ 37-41-37 to 37-41-41 from the "Tort Claims Fund".

§ 37-41-43. Identification of publicly-owned school district buses.

(1) All publicly owned school district buses which are hereafter acquired, and all publicly owned school district buses which shall hereafter be repainted, whether presently owned or hereafter acquired, and all publicly owned school district buses which do not have the name of the county or school district owning same painted thereon, whether such buses be owned by the county or a school district, shall have painted on both sides thereof the name of the county or school district owning same. Such words shall be painted on each such bus in letters at least five (5) inches in height and in a color which is in contrast with the color of the vehicle.

(2) Any contract entered into by a school district for the operation, rental or leasing of school buses with private or public entities under the authority provided in Section 37-41-3, or the purchase of school buses to be used by a school district under the authority provided in Sections 37-41-29 and 37-41-31, shall stipulate in the contractual agreement that the entity from whom the school bus is rented, leased or purchased, or which is providing the transportation service, shall cause to be placed on the bus, the required district-identifying signage required under subsection (1), before delivery of the school bus into possession of the school district.

SOURCES: Codes, 1942, § 6336-18; Laws, 1953, Ex Sess, ch. 15, § 17; Laws, 1954, ch. 264; Laws, 1988, ch. 466, § 6; Laws, 2013, ch. 497, § 76; Laws, 2014, ch. 486, § 1, eff from and after July 1, 2014.

Amendment Notes — The 2013 amendment inserted "district" preceding "buses" three times; and inserted "school" following "name of the county or" in the first sentence.

The 2014 amendment added (2).

Cross References — Color of used school buses used on public roads and highways, see § 63-7-79.

§ 37-41-45. Police may stop publicly-owned school district bus to ascertain whether its use is authorized by law.

It shall be a misdemeanor for any person to use a publicly owned school district bus for any purpose other than one in connection with the school, and, upon conviction thereof, such person shall be fined not less than Fifty Dollars ($50.00). When any publicly owned school district bus is being operated on the public roads or highways at a time other than the usual and customary time for the transportation of children to and from the public schools, members of the Highway Safety Patrol, sheriffs, constables and other peace officers shall have the power and authority to stop such bus for the purpose of ascertaining whether the trip then being made is authorized by law. If it be found that such trip is unauthorized, such highway patrolman, sheriff, constable or other peace or police officer shall forthwith report the same to the school board owning such bus and to the State Department of Education.

SOURCES: Codes, 1942, § 6336-18; Laws, 1953, Ex Sess, ch. 15, § 17; Laws, 1954, ch. 264; Laws, 1982, ch. 354, § 16; Laws, 1986, ch. 492, § 145; Laws, 2013, ch. 497, § 77, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment twice inserted "district" preceding "bus" and made minor stylistic changes.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 37-41-47. Speed of school bus; penalty.

It shall be unlawful for a driver of any school bus, whether a public or a contract bus, to drive said bus at a speed greater than forty-five (45) miles per hour while transporting children to and from school on regular routes. However, any such driver, while operating a school bus on other authorized trips, shall not drive said school bus at a speed greater than fifty (50) miles per hour. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) for each such offense. In addition thereto, upon such conviction, such driver may be discharged from further employment as a school bus driver or carrier and his contract as such may be terminated.

SOURCES: Codes, 1942, § 6336-17; Laws, 1953, Ex Sess, ch. 15, § 16; Laws, 1982, ch. 354, § 17, eff from and after July 1, 1982.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 37-41-49. Violation of safety regulations of state board of education; penalty.

In case of any violation by a school district bus driver or carrier of the safety regulations established by the State Board of Education, such violation shall be deemed a misdemeanor and such offender may be punished as provided in Section 37-41-47.

SOURCES: Codes, 1942, § 6336-17; Laws, 1953, Ex Sess, ch. 15, § 16; Laws, 2013, ch. 497, § 78, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment inserted "district" preceding "bus driver or carrier."

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 37-41-51. Repealed.

Repealed by Laws, 1982, ch. 354, § 30, eff from and after July 1, 1982. [Codes, 1942, § 6336-11; Laws, 1953, Ex Sess, ch. 15, § 10]

Editor's Note — Former § 37-41-51 required school buses to be equipped with heaters and fire extinguishers.

§ 37-41-53. Inspections and safety requirements for motor vehicles used for public school district transportation; condemnation of unsafe school district buses; penalties for operation of condemned bus.

(1) Each school board, person, firm or corporation transporting public school district children on the public roads, streets and highways of the state with motor vehicles shall have the motor vehicles inspected according to the laws of the state. Each motor vehicle shall be inspected by a competent mechanic to be safe for transporting pupils on the roads, streets and highways of the state before it is released for such purpose. If such motor vehicle is found to be unsafe for transporting pupils, then it shall be properly repaired or adjusted as necessary before being used to transport pupils. The provisions of this subsection shall not apply to vehicles owned by individuals and under private contract to the school district and used exclusively for transporting members of their immediate families.

(2) The State Department of Education may inspect, at its discretion, any school bus used for transporting school district pupils to and from the public schools or for activity purposes to determine the safety of such motor vehicle for operation on the roads, streets and highways of this state. In the event a

vehicle is inspected and is found to be unsafe for transporting pupils, a report shall be filed with the appropriate school district official indicating its deficiencies with recommendations for correcting such deficiencies.

(3) If it is determined that any school district buses are in such defective condition as to constitute an emergency safety hazard, those buses may be condemned and removed from service and shall not be returned to service until adequate repairs are completed and such buses are reinspected by the State Department of Education. Any school district official who approves the operation of any school bus that has been removed from service under the conditions listed above, prior to being reinspected by the State Department of Education, shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment in the county jail for a period not to exceed sixty (60) days, or a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment, in the discretion of the court.

SOURCES: Codes, 1942, § 6365; Laws, 1932, ch. 258; Laws, 1982, ch. 354, § 18; Laws, 1986, ch. 492, § 146; Laws, 1992, ch. 351, § 1; Laws, 2006, ch. 417, § 13; reenacted without change, Laws, 2009, ch. 345, § 28; Laws, 2013, ch. 497, § 79, eff from and after July 1, 2013.

Editor's Note — Laws of 2006, ch. 417, § 15 provides:

"SECTION 15. This act shall take effect and be in force from and after July 1, 2006, and shall stand repealed on June 30, 2009."

Amendment Notes — The 2013 amendment inserted "district" in the first sentence of (1); in (2), inserted "school district" in the first sentence, and "district" in the second sentence; and in (3), inserted "school district" in the first sentence and "district" in the second sentence, and made minor punctuation changes.

Cross References — Motor vehicle's brake equipment and performance generally, see §§ 63-7-51, 63-7-53.

RESEARCH REFERENCES

Am Jur. 7A Am. Jur. 2d, Automobiles and Highway Traffic §§ 183 et seq., 582, 742 et seq.

16A Am. Jur. Legal Forms 2d, Schools § 229:368 (transportation of students, inspection of vehicles).

§ 37-41-55. Duties of driver of school transportation vehicle used to transport pupils upon approaching railroad crossing or highway intersection.

(1) The driver of every school transportation vehicle used to transport pupils, on approaching any railroad crossing, shall bring the vehicle to a complete stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad. While stopped, the driver shall open the service door and driver's window, and look and listen for:

(a) Approaching trains or any other vehicle operated upon the rails for the purpose of maintenance of railroads, including, but not limited to, all hi-rail vehicles and on-track maintenance machines; and

(b) Signals indicating the approach of a train or other vehicle or machine operated upon the rails.

The driver shall not proceed until the driver has determined that it is safe to proceed.

(2) The driver of every school transportation vehicle used to transport pupils, on approaching any highway intersection, shall bring the vehicle to a complete stop and shall not proceed until the driver has determined that it is safe to proceed.

(3) Any driver who fails to bring his vehicle to a complete stop and follow the procedures as herein required is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars ($100.00) nor more than Two Hundred Fifty Dollars ($250.00) for each offense.

SOURCES: Codes, 1942, § 6339; Laws, 1938, ch. 236; Laws, 1982, ch. 354, § 19; Laws, 2003, ch. 559, § 1; Laws, 2011, ch. 327, § 2, eff from and after July 1, 2011.

Cross References — Duties of driver of motor vehicle carrying passengers for hire upon approaching railroad crossing, see § 63-3-1011.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 37-41-57. Promulgation of regulations governing design and operation of school buses.

The State Board of Education shall adopt and enforce regulations not inconsistent with the traffic laws and regulations of this state to govern the design and operation of all school buses used for the transportation of school children when owned and operated by any school board or privately owned and operated under contract with any school board in this state. Such regulations shall by reference be made a part of any such contract with a school board. Every school board, its officers and employees, and every person employed under contract by a school board shall be subject to said regulations.

Any officer or employee of any school board who violates any of said regulations or fails to include the obligation to comply with said regulations in any contract executed by them on behalf of a school board shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under a contract with a school board who fails to comply with any of said regulations shall be guilty of breach of contract and such contract shall be cancelled after notice and hearing by the responsible officers of such school board.

SOURCES: Codes, 1942, § 8227; Laws, 1938, ch. 200; Laws, 1980, ch. 561, § 20; Laws, 1982, ch. 354, § 20; Laws, 1986, ch. 492, § 147; brought forward without change, Laws, 2013, ch. 497, § 80, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment was brought forward without change.

Cross References — Power of state board of education to promulgate rules and regulations governing transportation of schoolchildren generally, see § 37-41-1.

ATTORNEY GENERAL OPINIONS

The State Board of Education has promulgated regulations which prohibit advertising on school buses. Jennings, July 25, 2003, A.G. Op. 03-0271.

§ 37-41-59. Mounting camera on school bus retractable, hand-operated stop sign.

Every school district is authorized to mount a camera on any retractable, hand-operated stop sign that is a part of the equipment of a school bus.

SOURCES: Laws, 2011, ch. 481, § 6, eff from and after July 1, 2011.

Editor's Note — Chapter 481, Laws of 2011, which enacted this section, is known as "Nathan's Law."

§ 37-41-61. Information campaign on school bus safety.

To the extent that state, federal or other funds are available or appropriated, the Department of Transportation and the Department of Education shall cooperate to conduct an information campaign to educate drivers concerning the provisions of this act and the importance of school bus safety.

SOURCES: Laws, 2011, ch. 481, § 7, eff from and after July 1, 2011.

PURCHASE OF SCHOOL TRANSPORTATION EQUIPMENT AND EMPLOYMENT OF DRIVERS

SEC.
37-41-81. General grant of authority.
37-41-83. Power to expend funds.
37-41-85. Purchases to be in manner prescribed by regulations.
37-41-87. Repealed.
37-41-89. Authority to borrow money.
37-41-91. Issuance of negotiable notes or bonds authorized.
37-41-93. Maturity; interest.
37-41-95. Manner of issuance and form thereof.
37-41-97. Deposit and use of proceeds.
37-41-99. Payment of principal and interest on notes and bonds.
37-41-101. Advertising and receiving bids by state board of education for school buses and bus bodies; purchase of buses and bodies by counties and school districts; purchase of other school transportation equipment; sale of unneeded school transportation equipment.
37-41-103. Promulgation of rules and regulations by state board of education.

§ 37-41-81. General grant of authority.

The local school boards of this state are hereby authorized and empowered to purchase, own and operate, under such rules and regulations as may be prescribed by the State Board of Education, motor vehicles and other equipment for the transportation of children to and from the public schools of the respective counties and school districts, and to provide for the servicing, repair, care and maintenance of such county or district-owned motor vehicles and to employ drivers for the operation thereof, and to establish, erect and equip school bus shops or garages, and purchase land therefor, all under such rules and regulations as may be prescribed by the State Board of Education.

SOURCES: Codes, 1942, § 6367-01; Laws, 1953, Ex Sess, ch. 18, § 1; Laws, 1982, ch. 354, § 21; Laws, 1986, ch. 492, § 148, eff from and after July 1, 1987.

Cross References — State board of education promulgating rules and regulations to carry out provisions of §§ 37-41-81 through 37-41-85, 37-41-89 through 37-41-101, see § 37-41-103.

Provision that no county or school district may purchase school buses or school transportation vehicles except in manner prescribed in § 37-41-101, see § 37-41-85.

Provisions governing purchases of school buses or pupil transportation vehicles, see § 37-41-101.

Pledge of monies from Education Enhancement Fund to pay debt service on debt issued under this section, see § 37-61-33.

JUDICIAL DECISIONS

1. In general.

A school board's purchase of 2 deluxe commercial "activity buses" without approval from the State Department of Education was unlawful since §§ 37-41-1, -81, -85, and -101 require state approval before purchasing vehicles for the transportation of pupils; however, personal liability for the illegal expenditures would not be imposed on board members since a school district is empowered with the authority to purchase transportation equipment, so that the school board's object was lawful and there was merely a mistaken exercise in legal power in that state approval was not sought. Smith v. Dorsey, 599 So. 2d 529 (Miss. 1992).

§ 37-41-83. Power to expend funds.

The school boards are authorized and empowered to expend the necessary amounts from the available transportation funds of the school district for the purchase of such transportation equipment, the servicing, repair and maintenance thereof and for the payment of the salaries of persons employed to drive or operate such transportation equipment, and to establish, erect and equip school bus shops or garages, and purchase land therefor.

SOURCES: Codes, 1942, § 6367-02; Laws, 1953, Ex Sess, ch. 18, § 2; Laws, 1982, ch. 354, § 22; Laws, 1986, ch. 492, § 149, eff from and after July 1, 1987.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 135 et seq.

CJS. 78A C.J.S., Schools and School Districts § 732.

§ 37-41-85. Purchases to be in manner prescribed by regulations.

No school board shall purchase any school bus or pupil transportation service vehicle as authorized by Section 37-41-81 except in the manner prescribed in Section 37-41-101. No school bus shall be purchased or otherwise acquired which does not conform to the specifications provided by the State Board of Education.

SOURCES: Codes, 1942, § 6367-03; Laws, 1953, Ex Sess, ch. 18, § 3; Laws, 1981, ch. 482, § 3; Laws, 1982, ch. 354, § 23; Laws, 1986, ch. 492, § 150, eff from and after July 1, 1987.

JUDICIAL DECISIONS

1. In general.

A school board's purchase of two deluxe commercial "activity buses" without approval from the State Department of Education was unlawful since §§ 37-41-1, -81, -85, and -101 require state approval before purchasing vehicles for the transportation of pupils; however, personal liability for the illegal expenditures would not be imposed on board members since a school district is empowered with the authority to purchase transportation equipment, so that the school board's object was lawful and there was merely a mistaken exercise in legal power in that state approval was not sought. Smith v. Dorsey, 599 So. 2d 529 (Miss. 1992).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools § 28.

CJS. 78 C.J.S., Schools and School Districts § 560.

§ 37-41-87. Repealed.

Repealed by Laws 1981, ch. 482, § 4, eff from and after April 15, 1981. [Codes, 1942, § 6367-04; Laws, 1953, Ex Sess, ch. 18, § 4]

Editor's Note — Former § 37-41-87 required contracts for purchase of transportation equipment and employment of drivers be approved by the state board of education.

§ 37-41-89. Authority to borrow money.

The school board of any school district may borrow money for the purchase of school transportation equipment or to establish, erect and equip school bus shops or garages, and purchase land therefor, and issue the negotiable notes or bonds of the school district as evidence of the indebtedness so incurred.

SOURCES: Codes, 1942, § 6367-05; Laws, 1953, Ex Sess, ch. 18, § 5; Laws, 1982, ch. 354, § 24; Laws, 1986, ch. 492, § 151; Laws, 2010, ch. 483, § 6, eff from and after July 1, 2010.

Cross References — Power of school board to issue negotiable notes, see § 37-41-91.

Maximum term and interest rate of notes or bonds issued under authority of this section, see § 37-41-93.

Deposit and expenditure of proceeds of notes or bonds issued under authority of this section, see § 37-41-97.

Payment of principal of and interest on notes or bonds issued under authority of this section, see § 37-41-99.

Pledge of monies from Education Enhancement Fund to pay debt service on debt issued under §§ 37-41-89 through 37-41-99, see § 37-61-33.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 136 et seq.

CJS. 78A C.J.S., Schools and School Districts §§ 699 et seq.

§ 37-41-91. Issuance of negotiable notes or bonds authorized.

Where the amount of the indebtedness to be incurred does not exceed the sum of Ten Thousand Dollars ($10,000.00), the school board may issue negotiable notes as evidence of the indebtedness so incurred. Said notes shall be issued without an election thereon and without giving notice of the intention to issue same. However, where the amount of the indebtedness to be incurred exceeds the sum of Ten Thousand Dollars ($10,000.00), then the school board may, at its option, either issue negotiable notes or may issue bonds as evidence of the indebtedness so incurred. Notes or bonds issued under the authority of Section 37-41-89 may be issued and the funds borrowed thereunder without the necessity of giving notice thereof except as specifically provided herein, and specifically without the necessity of complying with the requirements of Section 31-19-25.

SOURCES: Codes, 1942, § 6367-06; Laws, 1953, Ex Sess, ch. 18, § 6; Laws, 1986, ch. 492, § 152; Laws, 1988, ch. 466, § 7, eff from and after July 1, 1988.

Cross References — Pledge of monies from Education Enhancement Fund to pay debt service on debt issued under §§ 37-41-89 through 37-41-99, see § 37-61-33.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 136 et seq.

CJS. 78A C.J.S., Schools and School Districts §§ 752, 753.

§ 37-41-93. Maturity; interest.

All notes or bonds issued under the authority of Section 37-41-89 shall mature in approximately equal annual installments over a period of not exceeding six (6) years from the date of the issuance of such notes or bonds. Such notes or bonds may bear interest at a rate not exceeding that allowed in Section 75-17-105, and such interest may be payable annually or semiannually.

In the event the funds borrowed under the authority of Section 37-41-89 are to be expended for the purchase of used transportation equipment, then all notes or bonds evidencing such loans shall be made to mature within two (2) years from the date of the issuance of such notes or bonds.

SOURCES: Codes, 1942, §§ 6367-07, 6367-11; Laws, 1953, Ex Sess, ch. 18, §§ 7, 11; Laws, 1968, ch. 404, § 1; Laws, 1982, ch. 354, § 25; Laws, 1985, ch. 477, § 5, eff from and after passage (approved April 8, 1985).

Cross References — Pledge of monies from Education Enhancement Fund to pay debt service on debt issued under §§ 37-41-89 through 37-41-99, see § 37-61-33.

§ 37-41-95. Manner of issuance and form thereof.

All such notes issued by a school district shall be signed by the president of the school board and countersigned by the superintendent of schools, and the seal of the school district shall be impressed on each note as it is issued. The interest on said notes may be evidenced by proper coupons attached thereto and such coupons may bear only the facsimile signatures of the president of the school board and the superintendent of schools. Such notes shall be issued in such form and in such denominations as the school board shall determine. All of said notes shall be registered by the superintendent of schools in a book kept by him in his office for that purpose.

Where bonds are issued by the school board the manner of issuance and the form thereof shall be in compliance with the provisions of Sections 37-59-1 through 37-59-45.

SOURCES: Codes, 1942, § 6367-08; Laws, 1953, Ex Sess, ch. 18, § 8; Laws, 1982, ch. 354, § 26; Laws, 1986, ch. 492, § 153; Laws, 1987, ch. 307, § 21, eff from and after passage (approved March 3, 1987).

Cross References — Pledge of monies from Education Enhancement Fund to pay debt service on debt issued under §§ 37-41-89 through 37-41-99, see § 37-61-33.

RESEARCH REFERENCES

CJS. 78A C.J.S., Schools and School Districts § 784.

§ 37-41-97. Deposit and use of proceeds.

The proceeds of all notes or bonds issued under the authority of Section 37-41-89 shall be deposited in the proper county or municipal treasury to the credit of a special school transportation equipment fund and shall be used and expended by the school board for the purpose or purposes for which they were issued under such rules and regulations as may be prescribed by the State Board of Education, and for no other purposes.

All such funds shall be paid out on warrants issued by the clerk of the board of supervisors or the municipal clerk, as the case may be, on pay certificates issued by the superintendent of schools upon order of the school board.

SOURCES: Codes, 1942, § 6367-09; Laws, 1953, Ex Sess, ch. 18, § 9; Laws, 1982, ch. 354, § 27; Laws, 1986, ch. 492, § 154; Laws, 2004, ch. 357, § 12, eff from and after July 1, 2004.

Cross References — Pledge of monies from Education Enhancement Fund to pay debt service on debt issued under §§ 37-41-89 through 37-41-99, see § 37-61-33.

§ 37-41-99. Payment of principal and interest on notes and bonds.

The principal of and interest upon all notes or bonds issued under the authority of Section 37-41-89 shall be paid out of such transportation funds of the school district as may be available for such purpose. It shall be the duty of the school board to set aside each year out of such transportation funds a sufficient amount to pay the principal of and interest upon said notes or bonds as and when the same shall respectively mature and accrue. It shall be the duty of the superintendent of schools to include in the school budget each year separate items showing the amount required for the payment of the principal of and the interest upon all notes or bonds issued under the authority of said section.

SOURCES: Codes, 1942, § 6367-10; Laws, 1953, Ex Sess, ch. 18, § 10; Laws, 1982, ch. 354, § 28; Laws, 1986, ch. 492, § 155; Laws, 1987, ch. 307, § 22; Laws, 2004, ch. 357, § 13, eff from and after July 1, 2004.

Cross References — Pledge of monies from Education Enhancement Fund to pay debt service on debt issued under §§ 37-41-89 through 37-41-99, see § 37-61-33.

RESEARCH REFERENCES

CJS. 78A C.J.S., Schools and School Districts § 787.

§ 37-41-101. Advertising and receiving bids by state board of education for school buses and bus bodies; purchase of buses and bodies by counties and school districts; purchase of other school transportation equipment; sale of unneeded school transportation equipment.

(1) The State Board of Education is hereby authorized, empowered and directed to advertise for and receive sealed bids and proposals for sale of school bus bodies and school buses sold as complete units to the school boards of school districts in this state. The State Board of Education shall approve persons, firms, corporations or associations authorized to sell school bus bodies and school buses sold as complete units, and shall establish prices relative thereto based upon the lowest and best bids, which school districts may not exceed in purchasing such equipment. In determining the lowest and best bids received for such equipment, there shall be included as part of the total cost thereof any transportation or freight charges which will be incurred. The State

Board of Education may permit all such bidders to sell said equipment provided that the bidders agree to sell the equipment at prices established based upon the lowest and best bid and in compliance with rules and regulations relative thereto promulgated by the state board. Persons, firms, corporations or associations permitted to sell school bus bodies and school buses sold as complete units shall be limited to those actually submitting bids for consideration by the State Board of Education. The State Board of Education shall reserve the right to reject any and all bids submitted.

(2) School boards may purchase school bus bodies and school buses sold as complete units without additional advertisement for bids, provided that the prices for such equipment do not exceed the maximum allowable prices established under the provisions of subsection (1) of this section, and that said purchases are in compliance with the conditions specified therein. All such purchases shall be subject to the approval of the State Department of Education, which shall verify compliance with the applicable specifications, rules and regulations promulgated by the State Board of Education.

(3) In addition to the method of purchasing authorized under this section, school boards are hereby authorized to advertise for and accept the lowest and best bid received for the purchase of school bus chassis and/or pupil transportation service vehicles. Provided, however, that local school governing boards may purchase school bus chassis and/or pupil transportation service vehicles from any motor vehicle dealer domiciled within the county of such governing board, whose bid does not exceed a sum equal to three percent (3%) greater than the price or cost which the dealer pays the manufacturer, as evidenced by the factory invoice for such vehicles. In the event said county does not have an authorized motor vehicle dealer, said board may, in like manner, receive and accept bids from motor vehicle dealers in any adjoining county. No purchase of school bus chassis or service vehicles under the provisions of this subsection shall be valid unless the purchase is made according to statutory bidding and licensing requirements. All purchases under provisions of this subsection shall be subject to the approval of the State Department of Education, which shall verify compliance with the applicable specifications, rules and regulations promulgated by the State Board of Education.

(4) Upon application to and approval by the State Department of Education, school governing boards are hereby authorized to purchase used school buses and used pupil transportation service vehicles, provided that said vehicles meet applicable specifications and the purchase price does not exceed their fair market value. Said fair market value shall be determined by an appraisal by three (3) experienced and impartial citizens, the selection of whom shall be mutually agreed upon by the parties thereto. Said appraisers may be subject to approval by the State Department of Education. Maximum regard for pupil safety and adequate protection of health shall be primary requirements which shall be observed by local school governing boards in purchasing used school buses. The State Department of Education may inspect or have inspected any used school bus prior to purchase to determine whether said bus meets requirements of law and regulations of the state board.

(5) In the event the school board shall have determined that school buses or pupil transportation service vehicles are no longer needed for the transportation of pupils in such school district, such equipment may be sold to another school district without the necessity of advertising for bids. The school district proposing to sell the buses or service vehicles and the school district proposing to purchase such equipment shall agree upon a fair and reasonable price therefor. The agreement shall be spread upon the minutes of the boards of the respective school districts and shall be subject to the prior approval of the State Department of Education, which shall verify compliance with applicable specifications, rules and regulations of the State Board of Education.

SOURCES: Codes, 1942, § 6367-12; Laws, 1953, Ex Sess, ch. 18, § 12; Laws, 1970, ch. 340; Laws, 1981, ch. 482, § 1; Laws, 1986, ch. 492, § 156, eff from and after July 1, 1987.

Cross References — Acquisition of buses from holders of private transportation contracts, see § 37-41-29.

General grant of authority to counties and school districts to purchase, own and operate school transportation equipment, see § 37-41-81.

Provision that no county or school district may purchase school buses or pupil transportation vehicles except in manner prescribed in this section, see § 37-41-85.

JUDICIAL DECISIONS

1. In general.

A school board's purchase of 2 deluxe commercial "activity buses" without approval from the State Department of Education was unlawful since §§ 37-41-1, -81, -85, and -101 require state approval before purchasing vehicles for the transportation of pupils; however, personal liability for the illegal expenditures would not be imposed on board members since a school district is empowered with the authority to purchase transportation equipment, so that the school board's object was lawful and there was merely a mistaken exercise in legal power in that state approval was not sought. Smith v. Dorsey, 599 So. 2d 529 (Miss. 1992).

The legislative intent of § 37-41-101, authorizing the State Board of Education to enter into contracts for the sale of school transportation equipment, mandates that the school district or county board use its own money to purchase under a contract entered into by the state board. Thus, in a proceeding by a seller of school bus bodies for a mandatory injunction to compel the board to comply with the statute, the chancery court erred in granting the injunction based on the court's opinion that, since the board does not purchase any school buses, it could not enter into any contract for the purchase of such vehicles. State Bd. of Educ. v. Bus Supply Co., 386 So. 2d 383 (Miss. 1980).

ATTORNEY GENERAL OPINIONS

School buses may not be purchased through a lease purchase agreement. Carnathan, May 29, 1992, A.G. Op. #92-0340.

§ 37-41-103. Promulgation of rules and regulations by state board of education.

For the further purpose of carrying out the provisions of Sections 37-41-81 through 37-41-101, the state board of education is further authorized and empowered to adopt and promulgate reasonable rules and regulations not inconsistent with the law for such purpose. Said state board of education shall have, in addition, all power and authority conferred upon it by the provisions of Sections 37-41-1 through 37-41-53 or any other statute.

SOURCES: Codes, 1942, § 6367-12; Laws, 1953, Ex Sess, ch. 18, § 12; Laws, 1982, ch. 354, § 29, eff from and after July 1, 1982.

Cross References — Power of state board of education to promulgate rules and regulations governing transportation of schoolchildren generally, see § 37-41-1.

Power of state board of education to promulgate regulations governing design and operation of school buses generally, see § 37-41-57.

SAFETY COUNCIL
[REPEALED]

SEC.
37-41-121 through 37-41-133. Repealed.

§§ 37-41-121 through 37-41-133. Repealed.

Repealed by laws, 1982, ch. 354, § 30, eff from and after July 1, 1982.

§ 37-41-121. [Codes, 1942, §§ 6357; Laws, 1936, ch. 262; Laws, 1958, ch. 316]

§§ 37-41-123 through 37-41-133. [Codes, 1942, §§ 6358, 6359, 6361-6364; Laws, 1936, ch. 262]

Editor's Note — Former § 37-41-121 provided for appointment of safety council.

Former § 37-41-123 provided for instruction of members of council by superintendent of school.

Former § 37-41-125 required assignment of members of council to school buses.

Former § 37-41-127 provided for reports of violations by bus drivers by individual council member to superintendent of his school; also reports to trustees and county superintendents.

Former § 37-41-129 provided for discharge of bus driver for violations after notice hearing.

Former § 37-41-131 provided for discharge of bus drivers by school principals or teachers in charge in schools not having superintendents.

Former § 37-41-133 provided that §§ 37-41-121 to 37-41-131 were cumulative in effect and not in substitution for other laws respecting safety of school children riding in buses.

CHAPTER 43

Textbooks

Sec.
37-43-1. Purpose of chapter; distribution of textbooks to schools and pupils; definition of "board" and "textbook."
37-43-2. Transfer of functions, powers, duties, etc., of State Textbook Procurement Commission to State Board of Education.
37-43-3 through 37-43-15. Repealed.
37-43-17. Persons disqualified from participation in rating and adoption of textbooks.
37-43-19. General powers and duties of board.
37-43-21. Textbook rating committees; disposition of sample textbooks; use of textbook allotment for repair of textbooks; prices for new textbook purchases.
37-43-23. Procedure for purchase of textbooks from publishers; distribution of books.
37-43-24. Timely acquisition of Braille and large print textbooks.
37-43-25. Retention of specimen copies of textbooks, contracts and bonds, and copies of bids.
37-43-27. No books to be purchased from trusts.
37-43-29. Designation of Secretary of State as contractor's agent.
37-43-31. Selection of books by local school districts.
37-43-33. Purchase of books by parents, school boards, etc.
37-43-35. Repealed.
37-43-37. Numbering of books; record of books issued to pupils.
37-43-39. Persons prohibited from acting as agents or attorneys for textbook publishers.
37-43-41. State Textbook Fund; Local School District Textbook Carryover Fund.
37-43-43. Deposit of funds to credit of State Textbook Fund.
37-43-45. Suits for recovery of losses.
37-43-47. Payment of bills for textbooks.
37-43-49. Storage of school books by counties.
37-43-51. Reports by schools receiving textbooks.
37-43-53. Advertising on covers of textbooks.
37-43-55. Purchase and distribution of Mississippi Blue Book.
37-43-57. Penalties for violations of chapter.
37-43-59. Furnishing and disposition of samples.

§ 37-43-1. Purpose of chapter; distribution of textbooks to schools and pupils; definition of "board" and "textbook."

(1) This chapter is intended to furnish a plan for the adoption, purchase, distribution, care and use of free textbooks to be loaned to the pupils in all elementary and high schools, other than charter schools, of Mississippi.

(2) The books herein provided by the State Board of Education, which shall be the State Textbook Procurement Commission, shall be distributed and loaned free of cost to the children of the free public school districts of the state and of all other schools located in the state, which maintain educational standards equivalent to the standards established by the State Department of Education for the state schools as outlined in the Approval Requirements of the State Board of Education for Nonpublic Schools.

(3) Teachers shall permit all pupils in all grades of any public school in any school district to carry to their homes for home study, the free textbooks loaned to them, and any other regular textbooks whether they be free textbooks or not.

(4) For the purposes of this chapter, the term "board" shall mean the State Board of Education.

(5) "Textbook" shall be defined as any medium or manual of instruction which contains a systematic presentation of the principles of a subject and which constitutes a major instructional vehicle for that subject.

(6) In addition to the authority granted in this chapter, local school boards shall make available to the parents or legal guardians of any children of school age who reside in the school district administered by the school board, upon request, any textbooks on the state surplus inventory list. The parent or legal guardian is responsible for the return of the textbook(s) to the local school district upon completion of the textbook(s) use. Failure to return the textbook(s) to the school district will result in the parents or legal guardians being responsible for compensating the school district for the fair market value of the textbook(s).

SOURCES: Codes, 1942, §§ 6656, 6658; Laws, 1940, ch. 202; Laws, 1942, ch. 152; Laws, 1944, ch. 149, § 1; Laws, 1981, ch. 507, § 2; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 1; Laws, 1984, ch. 404, § 1; Laws, 1985, ch. 395, § 1; Laws, 1986, ch. 349, § 1; reenacted and amended, Laws, 1987, ch. 481, § 2; Laws, 1994, ch. 405, § 1; Laws, 2006, ch. 555, § 1; Laws, 2008, ch. 414, § 1; Laws, 2011, ch. 348, § 3; Laws, 2013, ch. 497, § 81, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment inserted "other than charter schools" in (1); substituted "school districts" for "schools" in (2); and inserted "in any school district" in (3).

Cross References — Assumption of authority and duties of State Textbook Procurement Commission by State Board of Education, see § 37-43-2.

Appropriation of monies deposited into the Education Enhancement Fund to be used for purchase of textbooks to be loaned under this chapter, see §§ 37-61-33.

JUDICIAL DECISIONS

1. In general.
2. Taxpayers' suits.

1. In general.

In reviewing decisions of state textbook purchasing board that private schools are eligible to receive state-owned textbooks, as to those private academies which were established during the wave of massive desegregation orders of federal courts, a prima facie case of racial discrimination arises from proof (a) that the school's existence began close upon the heels of the massive desegregation of public schools within its locale, and (b) that no blacks are or have been in attendance as students and none is or has ever been employed as teacher or administrator at the private school; once plaintiffs have established a prima facie case of racially discriminatory admission policies as to a particular academy, the burden shifts to the school's officials or representatives to rebut an inference of racial disparity. Norwood v. Harrison, 382 F. Supp. 921 (N.D. Miss. 1974), supplemented, 410 F. Supp. 133 (N.D. Miss. 1976), appeal dismissed, 563 F.2d 722 (5th Cir. 1977).

Free textbooks, like tuition grants directed to students in private schools, are a form of tangible financial assistance benefiting the schools themselves, and the state's constitutional obligation requires it to avoid not only operating the old dual system of racially segregated schools but also providing tangible aid to schools that practice racial or other invidious discrimination. Norwood v. Harrison, 413 U.S. 455, 93 S. Ct. 2804, 37 L. Ed. 2d 723 (1973), on remand, 382 F. Supp. 921 (N.D. Miss. 1974).

The constitutional infirmity of the Mississippi textbook program is that it significantly aids the organization and continuation of a separate system of private schools which may discriminate if they so desire. Norwood v. Harrison, 413 U.S. 455, 93 S. Ct. 2804, 37 L. Ed. 2d 723 (1973), on remand, 382 F. Supp. 921 (N.D. Miss. 1974).

Provision for a state textbook fund and for distribution and lending of free textbooks to the pupils of elementary schools, whether public or private, non-sectarian or sectarian, was not in contravention of the constitutional prohibition against control by any religious or other sect over any part of the school or other educational funds of the state, or the appropriation of any funds toward the support of any sectarian school or any school not conducted as a free school, in view of the facts that the benefits hereunder were directed to the pupils themselves and not to schools as such, in keeping with the state's paramount duty to educate the children thereof, and the fact that the use of the textbook fund constituted no charge against any public school fund, properly so called, not against any trust funds available for particular schools or educational purposes. Chance v. Mississippi State Textbook Rating & Purchasing Bd., 190 Miss. 453, 200 So. 706 (1941).

The privilege of requisition by qualified private or sectarian schools for the loan of such books to its pupils does not place in such schools the "control [of] any part of the school or other educational funds" of the state. Chance v. Mississippi State Textbook Rating & Purchasing Bd., 190 Miss. 453, 200 So. 706 (1941).

The loaning of free textbooks under a statute so providing irrespective of whether the school was public or private, under circumstances wherein the state retained full control and ownership over such books and their preservation was fostered by the exaction of suitable compensation for their loss or damage, did not constitute a direct or indirect aid to the respective schools which the pupils attended, although school attendance should be compulsory. Chance v. Mississippi State Textbook Rating & Purchasing Bd., 190 Miss. 453, 200 So. 706 (1941).

The appropriation of funds for the purchase of free textbooks to be distributed and loaned to pupils in elementary schools, including qualified private schools, did not constitute a pledging or loaning of the credit of the state in aid of any person, association, or corporation in contravention of the constitutional prohibition in that respect, in view of the fact that the books belonged to and were controlled by the state, that they were merely loaned to the individual pupils therein designated, that their preservation was fostered by exaction of suitable compensation for their loss or damage, and that the duty of protection through fumigation against contagion by use was assumed by the state. Chance v. Mississippi State Textbook Rating & Purchasing Bd., 190 Miss. 453, 200 So. 706 (1941).

2. Taxpayers' suits.

In an action against a state textbook rating and purchasing board to enjoin the members thereof from distributing or loaning free textbooks to pupils of private and sectarian elementary schools, the complainants, describing themselves as adult resident citizens of Forrest County, Mississippi, property owners and tax payers of the state for themselves and all other citizens, property owners and taxpayers of the state similarly situated and of the same class and kind who might desire to, and who were thereby requested, to join in the action, and alleging that the complaint had applied to the attorney general to bring the suit, that he was the only public official authorized to do so, and that such official had not only refused to do so but on the contrary had appeared in the suit as a representative and counsel for one of the defendants, met the requirements of a taxpayers' suit. Chance v. Mississippi State Textbook Rating & Purchasing Bd., 190 Miss. 453, 200 So. 706 (1941).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 353 et seq.

CJS. 78A C.J.S., Schools and School Districts § 1080.

Law Reviews. 1979 Mississippi Supreme Court Review: Miscellaneous. 50 Miss. L. J. 833, December 1979.

§ 37-43-2. Transfer of functions, powers, duties, etc., of State Textbook Procurement Commission to State Board of Education.

(1) On July 1, 1987, the State Board of Education shall assume all power, authority, duties and functions of the State Textbook Procurement Commission. All records, personnel, property and unexpended balances of appropriations, allocations or other funds of the State Textbook Procurement Commission shall be transferred to the State Board of Education on July 1, 1987. All such employee transfers shall be in accordance with the rules and regulations of the State Personnel Board. It is the intent of the Legislature that the number of persons employed by the state as a result of the consolidation required by this section shall be reduced where possible, but that such reduction shall result from attrition of employees and not dismissal.

(2) Each officer or agency subject to the provisions of this section is hereby authorized and empowered to promulgate such rules and regulations not conflicting with this section necessary to accomplish an orderly transition. Each officer or agency subject to this section shall assist, with the fullest degree of reasonable cooperation, any other officer or agency in carrying out the intent and purpose of this section.

(3) All members serving on the Mississippi State Textbook Procurement Commission as it existed under the provisions of Section 37-43-3 prior to June 30, 1987, shall continue to serve in an advisory capacity to the State Board of Education until December 31, 1987. This advisory board shall be known as the "Mississippi State Textbook Advisory Board," and shall assist the State Board of Education in assuming its duties under the provisions of this section and shall provide technical assistance as may be requested. The State Department of Education, from any funds appropriated thereto, shall, upon the request of the State Board of Education, timely pay all sums reasonably required for the operation of the Mississippi State Textbook Advisory Board, including per diem and actual expenses of such board, through December 31, 1987.

SOURCES: Laws, 1987, ch. 481, § 1, eff from and after June 30, 1987.

Editor's Note — Section 37-43-3 referred to in (3) was repealed by Laws, 1987, ch. 481, § 24, eff from and after June 30, 1987.

Cross References — Statewide personnel system and State Personnel Board, see §§ 25-9-101 et seq.

Membership, authority, and duties of State Board of Education, see §§ 37-1-1 et seq.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools § 353.

§§ 37-43-3 through 37-43-15. Repealed.

Repealed by Laws, 1987, ch. 481, §§ 5, 24, eff from and after June 30, 1987.

§ 37-43-3. [Codes, 1942, § 6634; Laws, 1940, ch. 202; Laws, 1942, ch. 152; Laws, 1946, ch. 444, § 1; Laws, 1981, ch. 507, § 3; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 2; Laws, 1984, ch. 404, § 2; Laws, 1985, ch. 395, § 2; Laws, 1986, ch. 349, § 2]

§ 37-43-5. [Codes, 1942, § 6634; Laws, 1940, ch. 202; Laws, 1942, ch. 152; Laws, 1946, ch. 444, § 1; Laws, 1981, ch. 507, § 4; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 3; Laws, 1984, ch. 404, § 3; Laws, 1985, ch. 395, § 3; Laws, 1986, ch. 349, § 3]

§ 37-43-7. [Codes, 1942, § 6635; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 5; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 4; Laws, 1984, ch. 404, § 4; Laws, 1985, ch. 395, § 4; Laws, 1986, ch. 349, § 4]

§ 37-43-9. [Codes, 1942, § 6639; Laws, 1940, ch. 202; Laws, 1948, ch. 304, § 1; Laws, 1950, ch. 373; Laws, 1981, ch. 507, § 6; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 5; Laws, 1984, ch. 404, § 5; Laws, 1985, ch. 395, § 5; Laws, 1986, ch. 349, § 5]

§ 37-43-11. [Codes, 1942, §§ 6634, 6640; Laws, 1940, ch. 202; Laws, 1942, ch. 152; Laws, 1946, ch. 444, § 1; Laws, 1981, ch. 507, § 7; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 6; Laws, 1984, ch. 404, § 6; Laws, 1985, ch. 395, § 6; Laws, 1986, ch. 349, § 6]

§ 37-43-13. [Codes, 1942, § 6636; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 8; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 7; Laws, 1984, ch. 404, § 7; Laws, 1985, ch. 395, § 7; Laws, 1986, ch. 349, § 7]

§ 37-43-15. [Codes, 1942, § 6637; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 9; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 8; Laws, 1984, ch. 404, § 8; Laws, 1985, ch. 395, § 8; Laws, 1986, ch. 349, § 8]

Editor's Note — Former § 37-43-3 related to the Mississippi State Textbook Procurement Commission.

Former § 37-43-5 related to election of executive secretary of Mississippi State Textbook Procurement Commission.

Former § 37-43-7 related to oath of office required of members and executive secretary of Mississippi State Textbook Procurement Commission.

Former § 37-43-9 related to compensation and expenses of members and executive secretary of Mississippi State Textbook Procurement Commission.

Former § 37-43-11 related to meetings and quorum of Mississippi State Textbook Procurement Commission.

Former § 37-43-13 stated certain interests that would bar appointment to Mississippi State Textbook Procurement Commission.

Former § 37-43-15 made unlawful offers of employment by those in publishing field to members and employees of Mississippi State Textbook Procurement Commission.

§ 37-43-17. Persons disqualified from participation in rating and adoption of textbooks.

If any person related within the third degree by blood or marriage, as computed by civil law, to any member of the board, or if any person that is associated in any business or partnership with any member of said board, shall be employed in good faith by any school book company, firm, corporation or agent in connection with the adoption of textbooks within this state, the said member of the board so related by blood or marriage, or so associated in business or partnership with such person, shall not vote in the rating and adoption of any school book or books offered by such school book company, firm, corporation or agent for adoption.

SOURCES: Codes, 1942, § 6638; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 10; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 9; Laws, 1984, ch. 404, § 9; Laws, 1985, ch. 395, § 9; Laws, 1986, ch. 349, § 9; reenacted and amended, Laws, 1987, ch. 481, § 3, eff from and after June 30, 1987.

Cross References — Applicability of provisions of this section to members of textbook rating committees, see § 37-43-21.

§ 37-43-19. General powers and duties of board.

The board shall have the power and is hereby authorized:

(a) To promulgate rules and regulations for the purchase, care, use, disposal, distribution and accounting for all books to be furnished under the terms of this chapter, and to promulgate such other rules and regulations as may be necessary for the proper administration of this chapter.

(b) To adopt, contract for, and make available for purchase, cash or credit, basal, supplementary or alternative textbooks through twelve (12) grades as provided in the school curriculum, or for any other course that it may add thereto.

(c) To determine the period of contract for rated and adopted textbooks which shall not be for less than four (4) years nor more than five (5) years, with the right of the board, in its discretion, to renew or extend such contract from year to year for a period not exceeding two (2) additional years and to determine the conditions of the approval or forfeiture of a contract and such other terms and conditions as may be necessary and not contrary to law.

(d) To have complete power and authority over additions and amendments to textbooks, advertising for bids and the contents thereof, including auxiliary materials and workbooks, advertising on the protective covers of textbooks, bids and proposals, prices of textbooks, specimen copies, cash deposits, selection and adoption, distribution, fumigation, emergencies, selling to others, return of deposits, forfeiture of deposits, regulations governing deposits, renovation and repair of books, requisition, transportation or shipment of books, and any other acts or regulations, not contrary to law, that may be deemed necessary for furnishing and loaning free textbooks to the school children, as provided in this chapter.

SOURCES: Codes, 1942, § 6641; Laws, 1940, ch. 202; Laws, 1942, ch. 152; Laws, 1946, ch. 444, § 2; Laws, 1960, ch. 310; Laws, 1981, ch. 507, § 11; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 10; Laws, 1984, ch. 404, § 10; Laws, 1985, ch. 395, § 10; Laws, 1986, ch. 349, § 10; reenacted and amended, Laws, 1987, ch. 481, § 4; Laws, 1994, ch. 405, § 2, eff from and after July 1, 1994.

Cross References — Assumption of authority and duties of State Textbook Procurement Commission by State Board of Education, see § 37-43-2.

JUDICIAL DECISIONS

1.-10. [Reserved for future use.]
11. Under former law.

1.-10. [Reserved for future use.]

11. Under former law.

In enacting statute requiring governor to approve schoolbook contractors' bonds, legislature was presumed to have known of supreme court's decisions that a person appointed or elected to an office is not entitled thereto if the public officer required to approve the official bond refuses to approve it. American Book Co. v. Vandiver, 181 Miss. 518, 178 So. 598 (1938).

Court could not inquire into governor's reasons for withholding approval of contractors' bonds. American Book Co. v. Vandiver, 181 Miss. 518, 178 So. 598 (1938).

Without approval of bond by governor and attorney-general, contractor had no completed contract, and no right to mandamus to compel superintendent of education to send out notice of adoption of books. American Book Co. v. Vandiver, 181 Miss. 518, 178 So. 598 (1938).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 353 et seq.

CJS. 78A C.J.S., Schools and School Districts § 1080.

§ 37-43-21. Textbook rating committees; disposition of sample textbooks; use of textbook allotment for repair of textbooks; prices for new textbook purchases.

(1) For the purpose of assisting the board during an adoption, there shall be rating committees in each of the fields in which textbooks are considered for adoption. Each committee shall be composed of seven (7) members. The State Superintendent of Public Education shall appoint four (4) members of each of the committees, each of whom shall be a competent, experienced teacher who is currently teaching in the field in which the textbooks are considered for adoption. The Governor of the State of Mississippi thereupon shall appoint three (3) members of each of said committees, who shall be persons he deems competent to participate in the appraisal of books offered for adoption, in each field, for use in the public schools of this state.

(2) It shall be the duty of said rating committees to appraise the books offered for adoption in each field in which textbooks are offered for adoption and recommend eight (8) books and/or series for each adoption to be made by the board and giving the reasons for or basis of such recommendations. No book shall be recommended which does not receive a majority vote of the members of each committee. Any member dissenting from any majority vote of

the committee shall make his appraisal of any book recommended or rejected by the majority of the committee and specify the reasons therefor and make such recommendations as he thinks proper. All appraisals, recommendations, and dissents if any, shall be in writing and filed with the board for its consideration upon the adoption. The travel expenses of such committees shall be reimbursed in the amount as provided in Section 25-3-41 and shall be paid out of the State Textbook Fund. Such rating committees shall be subject to the provisions of Section 37-43-17. The board shall have the power to reject any and all recommendations of the rating committees and to call for further recommendations; in no case shall the board adopt any book not recommended by the rating committees.

(3) Any and all sample textbooks that may be furnished by the publisher thereof as provided by Section 37-43-59 to any member of the board, the Superintendent of Public Education, and any member of a rating committee shall within one (1) year after receipt of same by said member be turned in to the State School Book Depository without cost to the State of Mississippi, and the same shall thereafter be used without any cost to the State of Mississippi in supplying free textbooks to the educable children of the State of Mississippi as now provided by law or shall be sold to the highest bidder by the board with the proceeds immediately deposited in the State Treasury to the credit of the State Textbook Fund.

(4) No state official, state employee, school board member, school superintendent, principal, teacher or any other individual shall sell or donate sample textbooks furnished them by the State School Book Depository as part of the textbook adoption or selection process. Said individuals and public officials shall not receive payment by the state depository, any publisher or any other company for sample textbooks.

(5) School districts may annually utilize any portion of the textbook allotment for the repair of textbooks; provided, however, that school districts are authorized and encouraged to utilize the Mississippi Department of Corrections bookbinder for the repair of textbooks.

(6) Prices for new textbook purchases shall not be higher than the lowest price at which books are sold anywhere in the United States, after all discounts are allowed.

SOURCES: Codes, 1942, § 6641; Laws, 1940, ch. 202; Laws, 1942, ch. 152; Laws, 1946, ch. 444, § 2; Laws, 1960, ch. 310; Laws, 1981, ch. 507, § 12; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 11; Laws, 1984, ch. 404, § 11; Laws, 1985, ch. 395, § 11; Laws, 1986, ch. 349, § 11; reenacted and amended, Laws, 1987, ch. 481, § 5; Laws, 1989, ch. 585, § 2; Laws, 1991, ch. 568, § 1; Laws, 1994, ch. 405, § 3; Laws, 1996, ch. 534, § 4, eff from and after July 1, 1996.

Cross References — State curriculum committee, see § 37-13-9.
Adoption of petition procedure books or series of books, see § 37-43-31.
State Textbook Fund, see § 37-43-41.

JUDICIAL DECISIONS

1. In general.

Textbook approval committee's rejection of Mississippi: Conflict and Change, while not constituting censorship per se, was certainly an impermissible rejection precluding the purchase of such textbook with state funds and evidenced a racially discriminatory purpose on the part of the defendants and accordingly, violated the civil rights statutes, where reasons given by some committee members for rejecting the textbook indicated that race was a motivating factor; those members who did not indicate that race influenced them in their decision also did not indicate any other reason for their rejection, which was a violation of the committee's statutory duty to state the reasons for its recommendation; and the legislative history and background of the textbook statutes also demonstrated racially discriminatory policies as a motivating factor. Loewen v. Turnipseed, 488 F. Supp. 1138 (N.D. Miss. 1980).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools § 353.

§ 37-43-23. Procedure for purchase of textbooks from publishers; distribution of books.

The State Board of Education is hereby authorized, empowered and directed to advertise for and receive sealed bids for textbooks. Bidders shall quote their lowest net wholesale prices, f.o.b. Central Depository, Jackson, Mississippi; however, the board may, in its discretion, establish a state depository or depositories or inaugurate any other plan for the distribution of books. Such prices shall not be higher than the lowest price at which books are sold anywhere in the United States, after all discounts are allowed. It is the intent of the Legislature that the price paid for a textbook shall not exceed the lowest price at which the same book, both having the same copyright date, is sold anywhere in the United States after all discounts are allowed. Every contract entered into under the provisions of this section by the board and any publisher or publishing company shall contain a provision that the publisher covenants and agrees that he is not furnishing under contract executed after the first day of January of the year in which the contract becomes effective, to any state, county or school district in the United States, the textbooks embraced in the contract at a price below the price stipulated therein. At any time that the board may find that any book or books, in either regular or special editions, are being furnished in any other state at a lower price under contract than it is being furnished in Mississippi, the contract shall be forfeited to the state. Any contractor who violates this provision shall return all money paid out for such book or books and also forfeit such book or books to the state, and suit may be brought on the bond of the contractor for all losses sustained.

Successful bidders or contractors shall be required to maintain a depository at a place within the State of Mississippi, to be named by the board, where a stock of books sufficient to meet all reasonable and immediate demands shall be kept. Upon requisition of the board, the depository shall ship books, transportation charges paid, to the various shipping points in Mississippi to be specified by the board. For such service the depository shall make no charge to the board except the actual cost of transportation from the depository to the shipping point designated. The cost of distribution shall not exceed eight percent (8%) of the total appropriation for any fiscal year.

All books furnished the State of Mississippi by contractors under this chapter shall continue to measure up to the same standards as are required in the contract, said standards to include printing, binding, cover boards, mechanical makeup, and any other relevant points as set out in the plans and specifications as fixed by the board. Any contractor of any book or books, who fails to keep said books up to said standards, shall forfeit, not only his contract to the state, but shall return all money paid out for such book or books and also forfeit said books to the state.

SOURCES: Codes, 1942, §§ 6641, 6642; Laws, 1940, ch. 202; Laws, 1942, ch. 152; Laws, 1946, ch. 444, § 2; Laws, 1960, ch. 310; Laws, 1981, ch. 507, § 13; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 12; Laws, 1984, ch. 404, § 12; Laws, 1985, ch. 395, § 12; Laws, 1986, ch. 349, § 12; reenacted and amended, Laws, 1987, ch. 481, § 6; Laws, 1988, ch. 466, § 8; Laws, 1996, ch. 534, § 5, eff from and after July 1, 1996.

Editor's Note — Laws of 1987, ch. 481, § 25, amended Section 24, Chapter 349, Laws of 1986, by deleting the date for repeal of this section.

Cross References — Textbooks purchased for developmental, advanced placement and distance learning courses exempt from bid and depository requirements of this section, see § 37-43-21.

Selection of books by local districts, see § 37-43-31.

JUDICIAL DECISIONS

1.-10. [Reserved for future use.]
11. Under former law.

1.-10. [Reserved for future use.]

11. Under former law.

In enacting statute requiring governor to approve schoolbook contractors' bonds, legislature was presumed to have known of supreme court's decisions that a person appointed or elected to an office is not entitled thereto if the public officer required to approve the official bond refuses to approve it. American Book Co. v. Vandiver, 181 Miss. 518, 178 So. 598 (1938).

Court could not inquire into governor's reasons for withholding approval of contractors' bonds. American Book Co. v. Vandiver, 181 Miss. 518, 178 So. 598 (1938).

Without approval of bond by governor and attorney-general, contractor had no completed contract, and no right to mandamus to compel superintendent of education to send out notice of adoption of books. American Book Co. v. Vandiver, 181 Miss. 518, 178 So. 598 (1938).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools § 353.

CJS. 78A C.J.S., Schools and School Districts § 1081.

§ 37-43-24. Timely acquisition of Braille and large print textbooks.

(1) This section shall be referred to and may be cited as the "Timely Acquisition of Braille and Large Print Textbooks Act of 2002."

(2) The State Department of Education is hereby authorized and directed to place textbook procurement orders for visually impaired and hearing impaired students in the schools of this state prior to the beginning of the fiscal year for which the expenditure for such order has been authorized by the Legislature. After June 1 of any year, the State Department of Education may order additional books, as needed. In addition, the State Department of Education is authorized and directed to place textbook, equipment and school supply procurement orders for students attending the state supported schools administered by the State Board of Education prior to the beginning of the fiscal year for which the expenditure for such order has been authorized by the Legislature, and may order additional books, equipment and supplies at a later date, as needed. The department shall insure that the appropriate procedures for textbook procurement are followed according to state law and board policy as described in the Textbook Administration Handbook.

SOURCES: Laws, 2002, ch. 545, § 1; Laws, 2003, ch. 546, § 8, eff from and after passage (approved Apr. 22, 2003.)

§ 37-43-25. Retention of specimen copies of textbooks, contracts and bonds, and copies of bids.

Specimen copies of all textbooks, which have been made the basis of contracts under the provisions of this chapter, clearly marked and identified as such, shall be deposited by the publisher of said books with the State Superintendent of Public Education. Said specimen copies shall be preserved and kept open for inspection by the public.

A copy of all contracts and bonds executed under the provisions of this chapter shall be provided to the following, one (1) copy for the contractor, one (1) copy to be filed in the Office of the Secretary of State, and one (1) copy to be filed in the office of the State Superintendent of Public Education.

An original of each bid, whether accepted or rejected, shall be filed and preserved in the office of the State Superintendent of Public Education for at least five (5) years.

SOURCES: Codes, 1942, § 6642; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 14; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 13; Laws, 1984, ch. 404, § 13; Laws, 1985, ch. 395, § 13; Laws, 1986, ch. 349, § 13; reenacted and amended, Laws, 1987, ch. 481, § 7; Laws, 2011, ch. 405, § 1, eff from and after July 1, 2011.

§ 37-43-27. No books to be purchased from trusts.

No book or books shall be purchased from any person, firm or corporation who is a member of, or connected with, any trust. In the event that it is established that this provision has been violated, the contract shall be forfeited and monies paid out under this contract shall be returned to the state, and all books heretofore purchased under said contract shall be kept by the state or the public school district which purchased the textbooks.

SOURCES: Codes, 1942, § 6644; Laws, 1940, ch. 202; reenacted without change, Laws, 1987, ch. 481, § 8; Laws, 1994, ch. 405, § 4, eff from and after July 1, 1994.

JUDICIAL DECISIONS

1.-10. [Reserved for future use.]
11. Under former law.

1.-10. [Reserved for future use.]

11. Under former law.

The anti-trust law of 1900 has no application to the state or its public agencies in letting a contract for copyrighted schoolbooks in the manner provided by law and as the result of competitive bidding by the terms of which new books are for a time to be exchanged without cost, book for book, in the place of old books then in use, after which the prices agreed on are to be paid for all books furnished during the continuance of the contract. B.F. Johnson Pub. Co. v. Mills, 79 Miss. 543, 31 So. 101 (1902).

A public contract for an article below cost is not "inimical to the public welfare" within Const. 1890 § 198. B.F. Johnson Pub. Co. v. Mills, 79 Miss. 543, 31 So. 101 (1902).

§ 37-43-29. Designation of Secretary of State as contractor's agent.

Any person, firm or corporation with whom a contract has been entered into, under the provisions of this chapter, shall designate the Secretary of State of Mississippi as its agent, upon whom citation and all other writs and processes may be served, in case any suit shall be brought against such person, firm or corporation.

SOURCES: Codes, 1942, § 6647; Laws, 1940, ch. 202; reenacted without change, Laws, 1987, ch. 481, § 9, eff from and after June 30, 1987.

JUDICIAL DECISIONS

1.-10. [Reserved for future use.]
11. Under former law.

1.-10. [Reserved for future use.]

11. Under former law.

Schoolbook contractor held not required to award agency contract to any applicant giving contract and bond, but had right to select its own agents. Pieri v. Sevier, 164 Miss. 572, 145 So. 97 (1933).

Plaintiff held required to procure agency contract before he could secure rights enforceable under statute requiring schoolbook contractor not to give one applicant for selling agency advantage over another. Pieri v. Sevier, 164 Miss. 572, 145 So. 97 (1933).

§ 37-43-31. Selection of books by local school districts.

(1) The State Board of Education shall adopt and furnish textbooks only for use in those courses set up in the state course of study as recommended by the State Accreditation Commission and adopted by such board, or courses

established by acts of the Legislature. In all subjects the board, in its discretion, may adopt textbooks and/or series from those recommended by the textbook rating committees. The board may adopt a plan which permits the local school districts to choose the book or books to be requisitioned from those adopted, provided:

(a) That, when a book is furnished by the state, it shall remain in use during the period of its adoption;

(b) That the average per pupil cost of textbooks so furnished any unit shall not exceed that allowed for all other units in the state;

(c) That nothing herein provided shall be construed as giving any school the authority to discard or replace usable copies of textbooks now being furnished by the state;

(d) That the State Department of Education is authorized to disburse the annual textbook appropriation directly to the public school districts in accordance with Section 37-43-31(1)(b). The textbooks procured through this chapter, as well as textbooks which are on hand on June 30, 1994, which were previously purchased through the provisions of this statute, shall become the property of the public school district which purchased them, unless the State Department of Education authorizes the transfer of unneeded textbooks to another location in accordance with rules and regulations promulgated by the State Board of Education;

(e) That textbooks which are on loan to other than public schools as referenced in Section 37-43-1, shall remain the property of the State of Mississippi. All requisitions for textbooks from these schools shall be submitted to the State Department to be processed and subsequently shipped to the requesting school. No funds shall be disbursed directly from the State Department of Education to the schools in this category for the purpose of procuring textbooks; and

(f) That funds made available through this chapter may be used to purchase any state-adopted or non-adopted textbook from any state depository, directly from the publisher, or in accordance with the provisions of Sections 37-43-21(5) and 37-43-31(3). For purchases made directly from the publisher, the public school district, or the State Department of Education when purchasing for other than public schools, shall not pay a higher price for a textbook than that listed on the current state-adopted list.

(2) Whenever any book under contract is displaced by a new adoption, the board may continue to require the schools to use the recently purchased books from any previous adoption; however, such period of use shall not exceed four (4) years.

(3) If five (5) or more school boards petition the State Board of Education to add a book, or a series of books, to the approved list of state adoptions in a given subject area, then the State Superintendent of Public Education shall have sixty (60) days to show cause to the State Board of Education why the books in question should or should not be purchased with state funds. If the petition is not acted upon within the sixty-day period, the petition shall be deemed to be approved. Once a textbook has been approved through the

petition process, any public school district or eligible other school may procure the said textbook utilizing funds appropriated through this chapter.

(4) If new and innovative textbooks that would improve a particular course of study become available between adoption cycles, a school board may petition the State Board of Education for permission to purchase these books out of sequence to be paid for with state textbook funds.

(5) The State Board of Education shall not allow previously rejected textbooks to be used if such textbooks were rejected for any of the following reasons:

(a) Obscene, lewd, sexist or vulgar material;

(b) Advocating prejudicial behavior or actions; or

(c) Encouraging acts determined to be anti-social or derogatory to any race, sex or religion.

(6) All books or series of books adopted under the petition procedures of this chapter shall be purchased under the provisions for bidding, pricing and distribution as prescribed in Section 37-43-23.

(7) Petition procedure books or series of books adopted under this section shall be considered only until the date of the next regular adoption series in the applicable subject area. Petition procedure books shall be submitted for formal adoption at the next applicable regular textbook adoption as prescribed under the provisions of Chapter 43, Title 37, Mississippi Code of 1972; otherwise, such books adopted under the petition procedures which do not receive formal adoption approval as recommended by the textbook rating committee shall be dropped from the state textbook petition adoption list. Provided, however, this provision shall in no way prohibit a school district from using other funds, federal or local, for the purchase of such books.

SOURCES: Codes, 1942, § 6646; Laws, 1940, ch. 202; Laws, 1942, ch. 152; Laws, 1944, ch. 151, § 1; Laws, 1950, ch. 382, §§ 1, 2; Laws, 1966, ch. 421, § 1; Laws, 1981, ch. 507, § 15; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 14; Laws, 1984, ch. 404, § 14; Laws, 1985, ch. 395, § 14; Laws, 1986, ch. 349, § 14; reenacted and amended, Laws, 1987, ch. 481, § 10; Laws, 1989, ch. 577, § 1; Laws, 1994, ch. 405 § 5, eff from and after July 1, 1994.

Cross References — State Accreditation Commission, see §§ 37-17-3 et seq.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools § 353.

22 Am. Jur. Pl & Pr Forms (Rev), Schools, Form 217 (complaint, petition, or declaration challenging enactment of restrictive book policy and parental consent scheme requiring parents of all students in class to consent to use of restricted novel before novel may be used in class).

CJS. 78A C.J.S., Schools and School Districts § 1080.

§ 37-43-33. Purchase of books by parents, school boards, etc.

Any parent, person or school board in any community of the state may purchase books from the depository who is given authority to sell books under the provisions of this chapter. The price of the books so ordered or brought shall be the same as the contract price, plus whatever postage or delivery charges might accrue.

SOURCES: Codes, 1942, § 6643; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 16; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 15; Laws, 1984, ch. 404, § 15; Laws, 1985, ch. 395, § 15; Laws, 1986, ch. 349, § 15; reenacted and amended, Laws, 1987, ch. 481, § 11; Laws, 1994, ch. 405, § 6, eff from and after July 1, 1994.

§ 37-43-35. Repealed.

Repealed by Laws, 1981, ch. 507, § 25, eff from and after July 1, 1981. [Codes, 1942, § 6645; Laws, 1940, ch. 202]

Editor's Note — Former § 37-43-35 required contract price of each book to be printed on inside cover with notice that price was fixed by state.

§ 37-43-37. Numbering of books; record of books issued to pupils.

All books shall have a uniform label printed on the inside cover. Each school shall number all books, placing the number on said labels. All teachers shall keep an accurate record of the number and names of all books issued to each pupil.

SOURCES: Codes, 1942, § 6650; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 17; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 16; Laws, 1984, ch. 404, § 16; Laws, 1985, ch. 395, § 16; Laws, 1986, ch. 349, § 16; reenacted and amended, Laws, 1987, ch. 481, § 12; Laws, 1988, ch. 466, § 9, eff from and after July 1, 1988.

§ 37-43-39. Persons prohibited from acting as agents or attorneys for textbook publishers.

No teacher in any of the schools of the state, and no county or municipal superintendent of schools, and no person officially connected with the government of or direction of any school shall, during the term of his office as said superintendent or during the time of his or her employment as teacher, act as agent or attorney for any textbook publishing company selling textbooks in this state. If, after election as county or municipal superintendent or employment as teacher, any person filling such position accepts the agency or attorneyship of any textbook publishing company, the acceptance of such agency or attorneyship shall work a forfeiture of the office or position as teacher held at the time of the acceptance of such agency or attorneyship.

SOURCES: Codes, 1942, § 6651; Laws, 1940, ch. 202; reenacted without change, Laws, 1987, ch. 481, § 13; brought forward without change, Laws, 2013, ch. 497, § 82, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment brought forward without change.

Cross References — Prohibition against school authorities speculating in public school books, furniture, equipment, and the like, see § 37-11-25.

§ 37-43-41. State Textbook Fund; Local School District Textbook Carryover Fund.

The State Textbook Fund of Mississippi shall consist of the amounts appropriated by the Legislature for the same, all monies accruing from the sale of disused books from other than public schools, all monies derived from the purchase of books by both public and private schools trustees, and by private individuals, all monies collected in damage suits under the terms of this chapter, and all other monies collected in any way whatsoever under the terms of this chapter.

There is hereby created a special fund in the State Treasury to be designated as the "Local School District Textbook Carryover Fund." Said fund shall be credited with any funds which were appropriated by the Legislature to the State Textbook Fund for any fiscal year in which said funds were allocated to local school districts but unexpended by said districts. Said unexpended funds shall be deposited by the board into the Local School District Textbook Carryover Fund to the credit of the local school districts which were originally allocated such funds. All carryover funds which exist on June 30, 1994 which belong to public school districts shall be disbursed to the respective school districts. Carryover funds for other than public schools shall be handled in the same manner as previously described in this section.

SOURCES: Codes, 1942, § 6648; Laws, 1940, ch. 202; Laws, 1981, ch. 344, § 1; reenacted and amended, Laws, 1987, ch. 481, § 14; Laws, 1994, ch. 405 § 7, eff from and after July 1, 1994.

Cross References — Deposit of funds obtained for lost or damaged books, as well as other funds, into State Textbook Fund, see § 37-43-43.

Payment out of State Textbook Fund of cost of Mississippi Blue Books purchased and distributed for supplementary use in Mississippi schools, see § 37-43-55.

§ 37-43-43. Deposit of funds to credit of State Textbook Fund.

The State Superintendent of Public Education shall deposit all funds sent to him from non-public schools for lost books or damaged books as well as all other funds accruing under this chapter in the State Treasury to the credit of the State Textbook Fund.

SOURCES: Codes, 1942, § 6652; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 18; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 17; Laws, 1984, ch. 404, § 17; Laws, 1985, ch. 395, § 17; Laws, 1986, ch. 349, § 17; reenacted and amended, Laws, 1987, ch. 481, § 15; Laws, 1994, ch. 405, § 8, eff from and after July 1, 1994.

Cross References — State Textbook Fund, see § 37-43-41.

§ 37-43-45. Suits for recovery of losses.

Any loss occasioned by the neglect, carelessness or failure of duty by the county superintendent or any principal or teacher in charge of any school, shall entitle the state to bring suit for the recovery of the amount of the loss or losses occasioned thereby.

Any writ or suit of any nature instituted under the provisions of this chapter shall be brought in the name of the State of Mississippi by the Attorney General. Any money or moneys recovered by such suit shall be placed to the credit of the State Textbook Fund.

SOURCES: Codes, 1942, § 6653; Laws, 1940, ch. 202; reenacted without change, Laws, 1987, ch. 481, § 16, eff from and after June 30, 1987.

Cross References — Suits by attorney general generally, see §§ 7-5-37, 7-5-39.
State Textbook Fund, see § 37-43-41.

JUDICIAL DECISIONS

1.-10. [Reserved for future use.]
11. Under former law.

1.-10. [Reserved for future use.]

11. Under former law.

An action by citizens of the state to enjoin the enforcement of, and to declare void, a contract between the state textbook commission as created under previous enactment (Code 1930, § 6791) and a textbook publisher to furnish certain books to be used in a public school for a period of five years, does not involve a separable controversy with the publisher which may be removed from the state to a federal court. Trimble v. John C. Winston Co., 56 F.2d 150 (5th Cir. 1932), cert. denied, 286 U.S. 555, 52 S. Ct. 580, 76 L. Ed. 1289 (1932).

§ 37-43-47. Payment of bills for textbooks.

Bills for textbooks purchased by the state on requisitions as provided in this chapter, and bills for all other expenses incurred under the terms of this chapter, shall be paid by warrants on the State Treasury made by the Auditor on receipt of bills from the State Superintendent of Public Education, and approved by the State Board of Education. Bills for textbooks purchased by public school districts, shall be submitted to the respective school district submitting the requisition. Each public school district will make payment to the appropriate entity which is responsible for providing the requested textbooks.

SOURCES: Codes, 1942, § 6649; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 19; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 18; Laws, 1984, ch. 404, § 18; Laws, 1985, ch. 395, § 18; Laws, 1986, ch. 349, § 18; reenacted and amended, Laws, 1987, ch. 481, § 17; Laws, 1994, ch. 405, § 9, eff from and after July 1, 1994.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

§ 37-43-49. Storage of school books by counties.

It shall be the duty of the board of supervisors of each county in the state to provide adequate storage space in the county courthouse, or in some other building at the county site, for the storage of school books distributed under the provisions of this chapter. In the event sufficient space for the storage of such books cannot be provided in the courthouse, the board of supervisors shall be authorized to rent a room or rooms in some other building at the county site for the storage of such books, and to pay such reasonable rental therefor as may be necessary out of the general fund of the county.

The county superintendent of education, with the approval of the county board of education, may expend out of the county school fund an amount not to exceed One Hundred Fifty Dollars ($150.00) in any school year for part-time janitor's services or other help in the handling, storage and distribution of school books.

SOURCES: Codes, 1942, § 6658-01; Laws, 1946, ch. 464, §§ 1, 2; reenacted without change, Laws, 1987, ch. 481, § 18, eff from and after June 30, 1987.

§ 37-43-51. Reports by schools receiving textbooks.

The management of all public, private, parochial or denominational schools wherein the board is furnishing to the students thereof free school textbooks and said free school textbooks are used by the students in said school, shall file annually with the State Board of Education any and all reports as may be required by the board.

Any person who shall refuse, neglect or fail to file any report required by the board shall be denied a new allocation of funds until such reports have been completed and filed with the board.

SOURCES: Codes, 1942, § 6658-02; Laws, 1946, ch. 464, §§ 1, 2; Laws, 1981, ch. 507, § 20; Laws, 1983, 1st Ex Sess, ch. 2, § 19; reenacted, Laws, 1984, ch. 404, § 19; Laws, 1985, ch. 395, § 19; Laws, 1986, ch. 349, § 19; reenacted and amended, Laws, 1987, ch. 481, § 19, eff from and after June 30, 1987.

JUDICIAL DECISIONS

1. In general.

Although a state statute authorizing public school authorities to lend textbooks without charge to children attending nonpublic elementary and secondary schools, including parochial schools, does not violate the establishment of religion clause of the First Amendment, a statute authorizing public school authorities to lend instructional material and equipment, such as maps, charts, films, and projection, recording and laboratory equipment provided free to public schoolchildren to qualifying nonpublic elementary and secondary schools, including parochial schools, constitutes an impermissible establishment of religion in violation of the First Amendment. Meek v.

Pittenger, 421 U.S. 349, 95 S. Ct. 1753, 44 L. Ed. 2d 217 (1975), reh'g denied, 422 U.S. 1049, 95 S. Ct. 2668, 45 L. Ed. 2d 702 (1975), overruled on other grounds, Agostini v. Felton, 521 U.S. 203, 117 S. Ct. 1997, 138 L. Ed. 2d 391 (1997).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 353 et seq., 457, 468-470.

CJS. 78A C.J.S., Schools and School Districts §§ 1111-1116.

§ 37-43-53. Advertising on covers of textbooks.

The board is hereby authorized, empowered and directed, in its discretion, to offer for advertising purposes, the protective covers of the several free textbooks, to accept bids, and to let contracts for said space. The contracts for said advertising purposes shall be let for definite periods not to exceed two (2) years.

It shall be the duty of the board, if it is desired that advertising shall be used, to approve all proposed advertising submitted for use on the covers of such free textbooks, and to accept only that advertising which will be in keeping with the spirit of the schools in promoting the children physically, mentally and morally. The board is hereby authorized, empowered and directed, in its discretion, to reject any and all bids submitted. No sectarian, un-American or immoral advertisements shall be accepted.

All moneys derived from sale of such advertising shall be deposited in the State Treasury for the benefit of the General Fund.

SOURCES: Codes, 1942, § 6659; Laws, 1940, ch. 194; Laws, 1981, ch. 507, § 21; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 20; Laws, 1984, ch. 404, § 20; Laws, 1985, ch. 395, § 20; Laws, 1986, ch. 349, § 20; reenacted and amended, Laws, 1987, ch. 481, § 20, eff from and after June 30, 1987.

§ 37-43-55. Purchase and distribution of Mississippi Blue Book.

The board is hereby authorized and empowered to purchase copies of the Mississippi Blue Book for supplementary use in the schools of Mississippi.

The board shall prescribe the number of copies to be furnished each school and shall make any other regulations governing its distribution and use.

The cost of the Mississippi Blue Books purchased and distributed shall be paid for out of the regular appropriation to the State Textbook Fund.

SOURCES: Codes, 1942, § 6659.5; Laws, 1950, ch. 362, §§ 1-3; Laws, 1981, ch. 507, § 22; reenacted, Laws, 1983, 1st Ex Sess ch. 2, § 21; Laws, 1984, ch. 404, § 21; Laws, 1985, ch. 395, § 21; Laws, 1986, ch. 349, § 21; reenacted and amended, Laws, 1987, ch. 481, § 21, eff from and after June 30, 1987.

Cross References — State Textbook Fund, see § 37-43-41.

§ 37-43-57. Penalties for violations of chapter.

Except as may otherwise be provided in this chapter, any person wilfully violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or by imprisonment not to exceed twelve (12) months in the county jail, or by both, in the discretion of the court.

SOURCES: Codes, 1942, § 6654; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 23; reenacted, Laws, 1983, 1st Ex Sess ch. 2, § 22; Laws, 1984, ch. 404, § 22; Laws, 1985, ch. 395, § 22; Laws, 1986, ch. 349, § 22; reenacted without change, Laws, 1987, ch. 481, § 22, eff from and after June 30, 1987.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 37-43-59. Furnishing and disposition of samples.

(1) Not more than one (1) pupil copy, one (1) teacher's edition, and one (1) copy of any limited auxiliary materials shall be furnished as samples or specimen copies to any single person involved in the state rating, adoption process of free textbooks. Any and all sample or specimen textbooks or other materials furnished to any person serving in an official capacity or as an officer or employee in a school receiving free textbooks shall be furnished only by the State Board of Education after receipt from the publishers. No samples shall be furnished by publishers directly to any such person. The board shall keep detailed records of all samples furnished to all persons and establish such procedures for return of all samples. The intent of this provision is that no person serving in an official capacity shall receive personal benefit or profit from sale of sample or specimen textbooks.

(2) Not more than one (1) pupil copy, one (1) teacher's edition, and one (1) copy of any limited auxiliary materials shall be furnished for review and inspection to any single person involved in the selection committee process of free textbooks. Any and all textbooks or other materials furnished to any such person serving in a selection committee capacity for inspection and review shall be furnished subject to the rules and regulations adopted by the board which such rules and regulations shall not prohibit direct delivery by the publishers to such persons. The board shall keep detailed records of all textbooks and auxiliary materials furnished to all such persons and establish such procedures for the return thereof. Any and all textbooks furnished to persons serving on selection committees shall be turned in to the State School Book Depository without any cost to the State of Mississippi and shall be credited to the account of the publisher. Any and all textbooks so furnished to persons serving on selection committees which have not been returned within one (1) year of the receipt of same the value thereof shall be charged against the allocation of state funds to said school district to the same extent as if said books had been purchased by said school district. The intent of this provision

is that no person serving as a selection committee member shall receive personal benefit or proceeds from the sale of said textbooks.

(3) The State School Book Depository shall pay into the State Treasury to the credit of the State Textbook Fund the net wholesale price less an eight percent (8%) distribution cost and freight charges of those adopted textbooks which are returned by the rating committees as required herein. The board shall also provide for the sale of damaged books and those textbooks not adopted into the secondary textbook market on an annual basis. The State School Book Depository shall pay into the State Treasury to the credit of the State Textbook Fund the amount received for which said textbooks are sold less an eight percent (8%) distribution cost and freight charges of said textbooks which are damaged or not adopted.

(4) Any person converting to personal use or selling any sample or specimen textbook or other materials contrary to provisions of this section shall be guilty of the crime of embezzlement as provided by Section 97-11-25 and in addition shall upon conviction pay a fine of Fifty Dollars ($50.00) per book sold or converted to personal use and shall be removed from any public office or public employment position held.

SOURCES: Laws, 1981, ch. 507, § 24; reenacted, Laws, 1983, 1st Ex Sess ch. 2, § 23; Laws, 1984, ch. 404, § 23; amended, Laws, 1984, ch. 488, § 199; reenacted, Laws, 1985, ch. 395, § 23; Laws, 1986, ch. 349, § 23; reenacted and amended, Laws, 1987, ch. 481, § 23, eff from and after June 30, 1987.

Editor's Note — Laws of 1984, ch. 488, § 341, provides as follows:

"SECTION 341. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action which accrued prior to the date on which the applicable sections of this act become effective, whether such assessments, appeals, suits, claims or actions shall have been begun before the date on which the applicable sections of this act become effective or shall thereafter be begun."

Cross References — Other provisions governing disposition or use of sample textbooks, see § 37-43-21.

State Textbook Fund, see § 37-43-41.

CHAPTER 45

State Aid to Public Schools

Sec.

37-45-1. Declaration of policy.
37-45-3. Transfer of functions, etc., of State Educational Finance Commission to State Board of Education.
37-45-5. Appointment and term of members.
37-45-7. Surety bond; voting.
37-45-9. Compensation and expenses.
37-45-11. Adoption and use of seal.
37-45-13. Meetings; organization.
37-45-15. Minutes; recess of meetings and hearings.
37-45-17. Executive secretary and other employees.
37-45-19. Promulgation of rules and regulations.
37-45-21. Distribution of school facility funds.
37-45-23. Formulation of policies and approval of plans for location and construction of noncharter public school buildings.
37-45-25. Supervision and approval of surveys of educational needs.
37-45-27. Hearings.
37-45-29. Service of notices and other process.
37-45-31. Issuance of subpoenas.
37-45-33. Procedure upon failure or refusal to comply with subpoena.
37-45-35. Fees and mileage of witnesses.
37-45-37. Designation of official reporter; compensation; duties.
37-45-39. Preservation of reporter's notes and transcription thereof.
37-45-41. Certification and filing of transcript of reporter's notes; corrections.
37-45-43. Fees of reporter.
37-45-45. Costs of administrative proceedings; schedule; taxation.
37-45-47. Time for payment of costs; procedure in case of nonpayment.
37-45-49. Payment of fees and costs of school authorities and commission.
37-45-51. Appeals to chancery court.
37-45-53. Appeal bonds.
37-45-55. Payment of premium on appeal bond of school authorities.
37-45-57. Preparation of record on appeal.
37-45-59. Record on appeal to be bound, indexed and compiled.
37-45-61. Appeals to supreme court.
37-45-63. Construction of chapter.

§ 37-45-1. Declaration of policy.

The legislature hereby recognizes that in order to exercise the constitutional power, set forth in Section 201 of Article 8, that the legislature may, in its discretion, "provide for the maintenance and establishment of free public schools for all children between the ages of six and twenty-one years, by taxation or otherwise," equality of educational opportunity with respect to instructional personnel, school buildings and facilities, transportation facilities, curriculum and all other school facilities should be provided for all such children, that the burden of providing such equality of educational opportunity can no longer be borne entirely by the local taxing units, and, therefore, that a program of state aid therefor should be instituted. The legislature, therefore, declares and determines that the maintenance of the uniform system of free public schools to insure and provide substantial equality of educational opportunity is the joint responsibility of the State of Mississippi and the local taxing units thereof.

SOURCES: Codes, 1942, § 6246-01; Laws, 1953, Ex Sess, ch. 11, § 1.

JUDICIAL DECISIONS

1. In general.

Code 1942, §§ 6246-01 et seq., 6247-01 et seq., 6248-01 et seq., and 6274-01 et seq., are in pari materia with Code 1942, §§ 6328-01 et seq. Adams County v. State Educ. Fin. Comm'n, 229 Miss. 566, 91 So. 2d 524 (1956).

RESEARCH REFERENCES

Law Reviews. Seeking Educational Funding Equity in Mississippi: "I Asked for Water, You Gave Me Gasoline". 58 Miss. L. J. 247, Fall, 1988.

Practice References. Mississippi School Laws Annotated (Michie).

Federal Education Laws and Regulations (Michie).

Vacca and Bosher, Law and Education: Contemporary Issues and Court Decisions (Matthew Bender).

Rapp, Education Law (Matthew Bender).

§ 37-45-3. Transfer of functions, etc., of State Educational Finance Commission to State Board of Education.

(1) There is hereby created a State Educational Finance Commission. For the purposes of this chapter, the term "commission" shall be construed to mean "State Educational Finance Commission."

(2) From and after July 1, 1988, the State Educational Finance Commission shall be abolished, and all duties and responsibilities thereof shall be transferred to the State Board of Education. All records, property, unexpended balances of appropriations, allocations or other funds of the commission shall be transferred to the State Department of Education. All references in the laws of this state to the "State Educational Finance Commission" or to the "commission," when referring to the Educational Finance Commission, shall be construed to mean the State Department of Education.

(3) In order to provide for an orderly transition in assuming the duties and responsibilities of the State Educational Finance Commission, the State Board of Education shall develop a plan of transition and shall report such plan to the Legislature on or before January 1, 1987.

SOURCES: Codes, 1942, § 6246-02; Laws, 1953, Ex Sess, ch. 11, § 2; Laws, 1986, ch. 500, § 20; Laws, 1990, ch. 535, § 10, eff from and after July 1, 1990.

§ 37-45-5. Appointment and term of members.

The commission shall be composed of six (6) members who shall be appointed by the Governor, subject to confirmation by the Senate. However, no such confirmation shall be made by the Senate until said appointment or appointments have been referred to the proper Senate standing committee and an individual report has been made on each appointee by said Senate standing committee reporting that in its judgment such appointee has the proper qualifications and is a proper person to perform the duties of this office.

One (1) member shall be appointed from each congressional district of the state as presently existing. In making the original appointments, two (2) members shall be appointed for a term expiring April 1st, 1956; two (2) members shall be appointed for a term expiring April 1st, 1958; and two (2) members shall be appointed for a term expiring April 1st, 1960. Thereafter all appointments shall be for terms of six (6) years commencing on April 1st of the year in which the appointments are made. New members of the commission shall be appointed from the same district as their predecessor. Any vacancy in the membership of the commission occurring before the expiration of a term shall be filled in the manner hereinabove provided for, but only for the unexpired term.

SOURCES: Codes, 1942, § 6246-03; Laws, 1953, Ex Sess, ch. 11, § 3; Laws, 1985, ch. 522, eff from and after passage (approved April 16, 1985).

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-7. Surety bond; voting.

Each member of the commission shall, before entering upon the discharge of his duties, enter into a good and sufficient surety bond in the sum of fifty thousand dollars ($50,000.00) payable to the State of Mississippi and conditioned upon the faithful discharge of his duties. Said bond shall be executed by some surety company authorized to do business in this state. The premiums thereon shall be paid from any funds which may be available to the commission for such purpose.

Any member of the commission may have his vote on any question before the commission recorded on the minutes thereof at the time of the vote, and a member of the commission who votes against an illegal, unlawful or unauthorized expenditure of funds shall not be liable therefor.

SOURCES: Codes, 1942, § 6246-04; Laws, 1953, Ex Sess, ch. 11, § 4.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-9. Compensation and expenses.

The members of the commission shall receive a per diem, mileage and expenses as is authorized by law per day for each day spent in attending meetings of the commission and in performing such other duties as may be required of them by law or the directives of the commission. However, except for regular or called meetings no member shall receive per diem, mileage or other expenses in performing duties unless such duties shall have been directed by an order duly entered on the minutes of a meeting of the commission prior to the performance thereof.

SOURCES: Codes, 1942, § 6246-05; Laws, 1953, Ex Sess, ch. 11, § 5; Laws, 1980, ch. 560, § 13, eff from and after passage (approved May 26, 1980).

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-11. Adoption and use of seal.

The commission is authorized to adopt and use an official seal.

SOURCES: Codes, 1942, § 6246-22; Laws, 1955, Ex Sess, ch. 58, § 2.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-13. Meetings; organization.

The commission shall meet on the third Monday of each month, and shall meet at such other times as may be designated by law or upon call by the chairman or a majority of the members of the commission. At its first meeting, the commission shall organize and elect a chairman and a vice-chairman. As soon as practicable thereafter, the commission shall adopt such rules and regulations not contrary to the provisions of this chapter and the other laws of the State of Mississippi as shall be necessary and proper to govern its proceedings. Four members of said commission shall constitute a quorum for the purpose of doing business. The commission may either elect a secretary from among its membership or designate the executive secretary as its secretary.

SOURCES: Codes, 1942, § 6246-07; Laws, 1953, Ex Sess, ch. 11, § 7.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance

Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-15. Minutes; recess of meetings and hearings.

The commission shall keep full, complete, and permanent minutes and records of all its proceedings, including the rules and regulations adopted by it, and said minutes shall be signed by the chairman, or vice-chairman, and attested by the secretary. All minutes of the commission shall be signed and approved not later than the close of the next regular meeting.

Any meeting or hearing of or by the commission may be recessed from day to day or time to time without the necessity of daily entering the fact of recess upon the minutes of the commission. However, the fact of recess of any hearing, where the proceedings are taken by a reporter, shall be shown in the record of the proceedings.

SOURCES: Codes, 1942, §§ 6246-10, 6246-23; Laws, 1953, Ex Sess, ch. 11, § 10; Laws, 1955, Ex Sess, ch. 58, § 3.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-17. Executive secretary and other employees.

The commission shall select an executive secretary, who shall be the administrative officer of the commission. The executive secretary shall perform such duties as are required of him by law, and such other duties as may be assigned to him by the commission. He shall receive such compensation as may be fixed by the commission. He shall hold, or be eligible to secure, a Class AA certificate for administrators as defined in the rules and regulations of the state department of education covering the certification of instructional personnel. He shall have had ten years' experience as a teacher, supervisor or administrator in the public schools, of which not less than five years shall have been in a responsible administrative position. He shall have had broad professional education experience and shall have recognized ability as a school administrator. He shall have no vote in the decisions of said commission, and shall have no voice in the making or fixing of policies by said commission. Said executive secretary, in order to qualify for his position, shall be required to make a good and sufficient bond in some surety company qualified and doing business in the State of Mississippi, in the penal sum of one hundred thousand dollars ($100,000.00), conditioned upon the faithful performance of his duties as required by law and the directives of said commission. The premium on said bond shall be paid from any funds available to the commission for such purpose. Said executive secretary may be removed at any time upon a majority vote of the membership of said commission.

The commission shall have the power and authority to employ such technical, professional, and clerical help as may be necessary for the administration of this chapter and for the performance of such other duties as may be imposed upon the commission by law, and to define the duties and fix the compensation of such employees.

SOURCES: Codes, 1942, § 6246-06; Laws, 1953, Ex Sess, ch. 11, § 6.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — Certification of teachers and administrators, see § 37-3-2.

§ 37-45-19. Promulgation of rules and regulations.

The commission shall promulgate such reasonable rules and regulations as shall be necessary and proper to carry out the provisions of this chapter and of such other laws, the administration of which shall be vested in the commission; however, no such rule or regulation shall be in conflict with any applicable law. It shall be the duty of the commission to furnish the board of trustees or other governing body of all school districts and the attorney general certified copies of all rules and regulations prescribed by the commission, which distribution shall be made not less than thirty days prior to the effective date of all such rules or regulations.

SOURCES: Codes, 1942, § 6246-09; Laws, 1953, Ex Sess, ch. 11, § 9.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-21. Distribution of school facility funds.

The commission shall distribute and disburse, subject to the provisions of law, such funds as may be appropriated by the legislature, and such funds as may otherwise become available, for constructing, improving, equipping, renovating, and repairing school buildings or other school facilities, as authorized and directed by chapter 47 of this title. No funds shall be distributed by said commission to any school district operating a school in the State of Mississippi until such school district shall have conclusively shown that it has complied with all the requirements of the laws of the State of Mississippi for the operation of schools or school districts, and until such school district shall have complied with all the applicable regulations of the commission.

SOURCES: Codes, 1942, § 6246-08; Laws, 1953, Ex Sess, ch. 11, § 8.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — State aid for construction of school facilities, see §§ 37-47-1 et seq.

RESEARCH REFERENCES

CJS. 78 C.J.S., Schools and School Districts § 13.

JUDICIAL DECISIONS

1. Funding and Eleventh Amendment immunity.

Where plaintiff parent sued defendant school district in state court alleging her child was sexually assaulted at school and obtained a judgment under the Mississippi Tort Claims Act, her later claims in federal court were properly held as barred due to res judicata; while school districts' sources of funding under Miss. Code Ann. §§ 37-45-21, 37-47-1 et seq., 37-57-1, 37-59-3, and 37-151-7 were equally divided between local school districts and the state under Miss. Code Ann. §§ 11-46-7, 11-46-16(2), and 11-46-17(2), any judgment against the school district would be paid through the Tort Claims Fund and excess liability insurance, and thus, the school district was not considered an arm of the state entitled to Eleventh Amendment immunity. Black v. N. Panola Sch. Dist., 461 F.3d 584 (5th Cir. 2006).

§ 37-45-23. Formulation of policies and approval of plans for location and construction of noncharter public school buildings.

Subject to the provisions of any applicable statute, the commission shall formulate policies and approve or disapprove plans for the location and construction of all necessary elementary and secondary noncharter public school buildings.

SOURCES: Codes, 1942, § 6246-11; Laws, 1953, Ex Sess, ch. 11, § 11; Laws, 2013, ch. 497, § 83, eff from and after July 1, 2013.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Amendment Notes — The 2013 amendment inserted "noncharter public" preceding "school buildings."

Cross References — Power of State Board of Education to specify amount of insurance to be carried on state-constructed school buildings, see § 37-7-303.

Duty of State Board of Education to administer and execute laws providing for state aid for construction of school facilities, see §§ 37-47-1 et seq.

Duty of State Board of Education to administer and execute laws providing for financial assistance to children attending nonsectarian private schools, see § 37-51-3.

§ 37-45-25. Supervision and approval of surveys of educational needs.

Subject to the provisions of any applicable statute, the commission shall supervise and approve or disapprove all surveys of educational needs made by any school board or board of education. The commission may assist such boards in making such surveys, and it may make supplemental surveys of such needs.

SOURCES: Codes, 1942, § 6246-11; Laws, 1953, Ex Sess, ch. 11, § 11.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — Responsibility of state superintendent for planning functions of department of education, see § 37-3-12.

§ 37-45-27. Hearings.

In conducting any hearing, the commission shall not be required to follow common law or statutory rules of evidence or the technical or formal rules of procedure. Any such hearing may be conducted in such manner as the commission may deem best to ascertain and determine the physical, mental, moral, social and educational welfare of the educable children involved, the efficiency of the operation of the schools, and the economic and social welfare of the various school areas involved.

SOURCES: Codes, 1942, § 6246-39; Laws, 1955, Ex Sess, ch. 58, § 19.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-29. Service of notices and other process.

All notices or other process authorized or required to be served upon the commission shall be served upon the chairman and the executive secretary.

SOURCES: Codes, 1942, § 6246-24; Laws, 1955, Ex Sess, ch. 58, § 4.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-31. Issuance of subpoenas.

The commission, or the chairman thereof, at any regular or recessed meeting, or the chairman in vacation, or the executive secretary in vacation pursuant to the direction of the chairman made at any time, is hereby empowered to issue under the seal of the commission and in its name, subpoenas for witnesses to require their attendance and the giving of testimony before the commission at any hearing or proceeding conducted by the commission and to require the production of such books, papers and records in any proceeding before the commission as may be material upon questions before or brought by the commission. Such subpoenas for witnesses or subpoenas duces tecum shall be directed to the sheriff or other lawful officer of the county of the residence of the witness named in the subpoena and shall be served and returned by the sheriff or other officer authorized by law to serve and return process in this state as in the chancery courts of this state and shall be obeyed just as process in said chancery court. The time and place for the appearance of the witness and the production of any documents, as the case may be, shall be specified in such subpoena.

SOURCES: Codes, 1942, § 6246-25; Laws, 1955, Ex Sess, ch. 58, § 5.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — Procedure upon failure or refusal to comply with subpoena, see § 37-45-33.

Fees and mileage of witnesses, see § 37-45-35.

§ 37-45-33. Procedure upon failure or refusal to comply with subpoena.

In case of the failure or refusal on the part of any person to comply with any subpoena issued as authorized in Section 37-45-31, or in case of the refusal of any witness to testify or answer to any matter regarding which he may be lawfully interrogated, the chancellor or the chancery court of the county of the residence of such person, or the chancellor or the chancery court of the county in which the hearing to which the subpoena is returnable is being conducted may, on application of the commission or the chairman thereof, in term time or vacation, issue an attachment for such person and compel him to comply with such subpoena and to attend before the commission and produce the documents specified in any subpoena duces tecum and give his testimony upon such matters as he may be lawfully required. Said chancery court shall have the power to punish for contempt as in case of disobedience of like process issued by or from such chancery court, or as in case of the refusal to testify therein in response to such process.

SOURCES: Codes, 1942, § 6246-26; Laws, 1955, Ex Sess, ch. 58, § 6.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-35. Fees and mileage of witnesses.

All witnesses attending the commission pursuant to process issued as authorized in Section 37-45-31, shall be entitled to the same per diem and mileage as provided for witnesses in the chancery courts of this state. Such witnesses shall attend from day to day until discharged by the commission or by agreement of counsel for the interested parties. The fee and mileage of all witnesses shall be paid by the county board of education or the board of trustees of a municipal separate school district interested in the matter under consideration by the commission. However, any witness fees or mileage of witnesses subpoenaed by the commission or by or at the direction of the chairman on its or their own motion shall be paid by the commission by proper requisition upon the funds appropriated for the operation of the commission. The commission may tax the cost of any proceeding before it as a part of its order in such proceeding.

SOURCES: Codes, 1942, § 6246-27; Laws, 1955, Ex Sess, ch. 58, § 7.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-37. Designation of official reporter; compensation; duties.

At any hearing held by the commission under the provisions of chapter 47 of this title, or under any other statute, it is made the duty of any county board of education or board of trustees of any municipal separate school district involved, jointly or severally, to provide at their or its own expense a competent reporter to be approved by the commission, or the chairman thereof, to take the proceedings had at such hearing, and in the event of an appeal to transcribe same and file with the commission an original and one copy thereof within the time prescribed by law. Said reporter shall act under the supervision of said commission, or the secretary thereof, and for the purpose of said hearing and any appeal therefrom he shall be considered as the official reporter of the commission.

If the parties applying for any such hearing shall, at the time of applying for such hearing, certify to the commission in writing, via registered mail, their inability to secure a competent reporter, the commission shall select and provide said reporter, whose duties shall be the same and whose fees and costs shall be borne and paid as costs, in the same manner as the reporter mentioned in the preceding parts of this section.

SOURCES: Codes, 1942, § 6246-30; Laws, 1955, Ex Sess, ch. 58, § 10.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-39. Preservation of reporter's notes and transcription thereof.

The reporter shall act in the same capacity as an official court reporter of the chancery courts of this state. His shorthand notes and the transcription thereof shall be preserved in the same manner and accorded the same verity as those of chancery court reporters.

SOURCES: Codes, 1942, § 6246-31; Laws, 1955, Ex Sess, ch. 58, § 11.

§ 37-45-41. Certification and filing of transcript of reporter's notes; corrections.

When the reporter's notes shall have been transcribed, the reporter shall certify same and file an original and one copy with the commission and give notice by registered mail of the fact of such filing to the county board or county boards of education and the board of trustees of any municipal separate school district involved in the proceeding covered by the transcript, and their respective counsel of record, if any, and to the commission.

Any correction of the transcript shall be made in the same manner provided for correcting a transcript in Section 9-13-35, Mississippi Code of 1972, with the commission exercising the rights and power of the trial judge mentioned therein, and the executive secretary of the commission exercising the duties of the clerk mentioned in said section. The written agreement provided by said section concerning the transcript therein provided to be filed in the supreme court may be entered into and filed in the chancery court to which the appeal is taken from any final rule, regulation or order of the commission.

SOURCES: Codes, 1942, § 6246-33; Laws, 1955, Ex Sess, ch. 58, § 13.

Editor's Note — Section 9-13-35 referred to in this section was repealed by Laws, 1991, ch. 573, § 141, eff from and after July 1, 1991.

Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-43. Fees of reporter.

The fees of the reporter, per diem, and for the transcription of any evidence taken by him upon any hearing before the commission, shall not be in excess of the customary per diem, transcription and filing fees made by the chancery court reporters of this state.

SOURCES: Codes, 1942, § 6246-32; Laws, 1955, Ex Sess, ch. 58, § 12.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-45. Costs of administrative proceedings; schedule; taxation.

The schedule of cost in the chancery courts of this state shall apply, where applicable, to the cost accruing or incurred in the proceedings before the commission.

The cost of the services of said reporter and any other cost provided for in this chapter shall be taxed as a part of the cost of any hearing before the commission. All costs paid to any employee of the commission and all costs collected by the commission and not required to be paid to some person by the terms of this chapter shall be paid into the treasury of the State of Mississippi.

SOURCES: Codes, 1942, §§ 6246-28, 6246-32; Laws, 1955, Ex Sess, ch. 58, §§ 8, 12.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-47. Time for payment of costs; procedure in case of nonpayment.

All costs taxed by the commission in any hearing or proceeding shall be had within forty-five days after the date of any final order of the commission or decree of the chancery court if no appeal is taken therefrom, and within thirty days after the final order or judgment of the supreme court of Mississippi if an appeal is taken to it.

In the event said costs are not so paid, said commission shall certify the same to the state board of education and unless said costs shall have been paid the said state board of education shall deduct the amount thereof, as to any county board of education, from the next allotment to said county for administrative expenses, and as to any municipal separate school district from its next allotment of two hundred dollars ($200.00) per teacher unit. Such amount shall be paid to the commission, which shall deposit same in the state treasury, and the same shall then be disbursed to the person to whom it is owing by proper warrant upon order of the commission. The provisions of this section shall not relieve the obligation of any surety upon any appeal bond.

SOURCES: Codes, 1942, § 6246-38; Laws, 1955, Ex Sess, ch. 58, § 18.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-49. Payment of fees and costs of school authorities and commission.

Any cost or fees provided by this chapter to be paid by any county board of education or board of trustees of a municipal separate school district may be paid by the county board of education from the administrative fund provided by Section 37-19-31, or from any school funds of the district other than minimum foundation program funds, and by the municipal separate district from the maintenance funds of the district, other than minimum foundation program funds. Any fees or costs provided by this chapter to be paid by the commission may be paid from the funds appropriated for its operation.

SOURCES: Codes, 1942, § 6246-35; Laws, 1955, Ex Sess, ch. 58, § 15; Laws, 1977, ch. 486, § 28, eff from and after July 1, 1977.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-51. Appeals to chancery court.

Any school board of a school district aggrieved by any final rule, regulation or order of the commission shall have the right of appeal to the chancery court of the county in which said school district or any part thereof may be located or situated, which appeal shall be taken and perfected as hereinafter provided within thirty (30) days from the date of such final rule, regulation or order. The said chancery court may modify or affirm such rule, regulation or order or reverse or remand the same for further proceedings as justice may require. All such appeals shall be taken and perfected, heard and determined, either in term time or in vacation, on the record, including a transcript of any evidence, pleadings or testimony filed and heard before said commission. Such appeal shall be heard and disposed of promptly by the chancery court as a preference cause. In perfecting any appeal provided by this chapter, the provisions of law respecting notice to the reporter and the allowance of bills of exception, now or hereafter in force respecting appeals from the chancery court to the Supreme

Court shall be applicable. The reporter shall transcribe his notes and file the transcript of the record with the commission within thirty (30) days after approval of the appeal bond.

Upon the filing with the commission of a petition for appeal to the chancery court, it shall be the duty of the commission, as promptly as possible and in any event within sixty (60) days after approval of the appeal bond, to file with the clerk of the chancery court a copy of the petition for appeal and of the rule, regulation or order appealed from, and a transcript of the record of the pleadings and evidence before the commission. After the filing of said petition, the appeal shall be perfected by the filing of bond in the sum of Five Hundred Dollars ($500.00) with two (2) sufficient sureties or with a surety company qualified to do business in Mississippi as the surety, conditioned to pay the cost of such appeal. Said bond shall be approved by the clerk of the court. The perfection of an appeal shall not stay or suspend the operation of any rule, regulation or order of the commission, but the judge of the said chancery court may award a writ of supersedeas to any rule, regulation or order of the commission after five (5) days' notice to the commission and after hearing. Any order or judgment staying the operation of any rule, regulation or order of the commission shall contain a specific finding, based upon evidence submitted to the chancellor and identified by reference thereto, that great or irreparable damage would result to the appellant if he is denied relief, and the stay shall not become effective until a supersedeas bond shall have been executed and filed with and approved by the clerk of the court or the chancellor, payable to the state. The bond shall be in an amount fixed by the chancellor and conditioned as said chancellor may direct in the order granting the supersedeas.

SOURCES: Codes, 1942, § 6246-12; Laws, 1953, Ex Sess, ch. 11, § 12; Laws, 1986, ch. 492, § 157, eff from and after July 1, 1987.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

JUDICIAL DECISIONS

1. In general.
2. Relationship to other laws.
3. Scope and nature of review.
4. Bill of exceptions.

1. In general.

This section [Code 1942, § 6246-12] does not contravene the constitutional distribution of governmental powers. Board of Educ. v. State Educ. Fin. Comm'n, 243 Miss. 782, 138 So. 2d 912 (1962).

2. Relationship to other laws.

This section [Code 1942, § 6246-12] was not implicitly repealed pro tanto by the provision of Code 1942, § 6248-07, that a hearing before the educational finance commission on an application for transfer of pupils to another district shall be final. Board of Educ. v. State Educ. Fin. Comm'n, 243 Miss. 782, 138 So. 2d 912 (1962).

3. Scope and nature of review.

An appeal to a chancery court from a determination of the Educational Finance Commission upon an application for transfer of a pupil is not tried de novo. Board of Educ. v. State Educ. Fin. Comm'n, 243 Miss. 782, 138 So. 2d 912 (1962).

The right of a county board of education to appeal to the court from an order of the state educational finance commission disapproving a two unit school system for the county as proposed by the county board did not mean that the court might redetermine, as on a trial de novo, the issues involved in the reorganization in controversy, or substitute its judgment for that of the commission. Adams County v. State Educ. Fin. Comm'n, 229 Miss. 566, 91 So. 2d 524 (1956).

Whether the state educational finance commission acted in a purely administrative, or legislative, or a quasi-judicial capacity, in disapproving the order of the county board of education proposing a 2-unit school system for the county, the commission was exercising a discretionary power vested in it by statute, and, upon appeal, the court was limited to a determination of whether the order of the commission was supported by substantial evidence, and whether the order went beyond the power of the commission to make, or violated some statutory or constitutional right of an interested party. Adams County v. State Educ. Fin. Comm'n, 229 Miss. 566, 91 So. 2d 524 (1956).

4. Bill of exceptions.

The time for tendering a bill of exceptions to an order of the school finance commission runs from the time the minutes on which it was entered were signed. Board of Educ. v. State Educ. Fin. Comm'n, 243 Miss. 782, 138 So. 2d 912 (1962).

§ 37-45-53. Appeal bonds.

The beneficiary in all appeal bonds shall be the State of Mississippi. Said bonds shall secure the payment of the cost accruing in the proceeding, including the cost of appeal and the performance of any other acts required by the chancellor in granting of supersedeas appeal from any final rule, regulation or order of the commission.

SOURCES: Codes, 1942, § 6246-29; Laws, 1955, Ex Sess, ch. 58, § 9.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-45-55. Payment of premium on appeal bond of school authorities.

Any school board is authorized to pay the premium on any appeal bond entered into under the provisions of Section 37-45-51. The said school board may pay same from the administrative fund provided by Section 37-19-31.

SOURCES: Codes, 1942, § 6246-36; Laws, 1955, Ex Sess, ch. 58, § 16; Laws, 1977, ch. 486, § 28; Laws, 1986, ch. 492, § 158, eff from and after July 1, 1987.

§ 37-45-57. Preparation of record on appeal.

In the event of an appeal by any county board of education or board of trustees of any municipal separate school district from any final rule, regulation or order of the state educational finance commission, it shall be the duty and responsibility of such appealing county board or board of trustees, under the supervision of the executive secretary of said commission, to prepare or cause to be prepared the record on appeal, which, when approved by the commission or by the chairman thereof in vacation, shall be and constitute the record on appeal. The same shall thereupon be filed, as required by law, in the chancery court to which the appeal is taken. The cost of making and filing such record shall be an item of cost of said appeal, which shall be paid by said appellant. The cost of such record shall not be in excess of the cost of a similar record on appeal from a chancery court of this state to the supreme court of Mississippi.

SOURCES: Codes, 1942, § 6246-34; Laws, 1955, Ex Sess, ch. 58, § 14.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — Record on appeal to be bound, indexed and compiled. See § 37-45-59.

§ 37-45-59. Record on appeal to be bound, indexed and compiled.

The record on appeal from the commission to the chancery court shall be bound, indexed and compiled in the same manner and form as the same record of appeal from a chancery court to the supreme court of this state.

SOURCES: Codes, 1942, § 6246-37; Laws, 1955, Ex Sess, ch. 58, § 17.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — Preparation of record on appeal, see § 37-45-57.

§ 37-45-61. Appeals to supreme court.

From an adverse decision of the chancery court, either party may appeal to the supreme court of the State of Mississippi. Said appeal shall be taken and perfected within thirty days and in the same manner provided by law for other appeals to the supreme court from the judgments of chancery courts, and upon appeal to the supreme court, the same shall be heard and disposed of as a preference cause as promptly and as expeditiously as the circumstances will permit.

SOURCES: Codes, 1942, § 6246-12; Laws, 1953, Ex Sess, ch. 11, § 12.

JUDICIAL DECISIONS

1. In general.
2. Relationship to other laws.

1. In general.

This section [Code 1942, § 6246-12] does not contravene the constitutional distribution of governmental powers. Board of Educ. v. State Educ. Fin. Comm'n, 243 Miss. 782, 138 So. 2d 912 (1962).

2. Relationship to other laws.

This section [Code 1942, § 6246-12] was not implicitly repealed pro tanto by the provision of Code 1942, § 6248-07, that a hearing before the educational finance commission on an application for transfer of pupils to another district shall be final. Board of Educ. v. State Educ. Fin. Comm'n, 243 Miss. 782, 138 So. 2d 912 (1962).

§ 37-45-63. Construction of chapter.

The provisions of this chapter are and shall be construed to be in addition to and supplemental of the provisions of any other statutes of this state pertaining to the matters herein referred to.

SOURCES: Codes, 1942, § 6246-40; Laws, 1955, Ex Sess, ch. 58, § 20.

CHAPTER 47

State Aid for Construction of School Facilities

Sec.
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§ 37-47-1. Administration of chapter.

The terms and provisions of this chapter shall be administered and executed by the state educational finance commission. For the purpose of this chapter, the term "commission" shall mean "state educational finance commission" except where the context clearly indicates otherwise.

SOURCES: Codes, 1942, § 6247-01; Laws, 1953, Ex Sess, ch. 13, § 1, eff from and after July 1, 1954.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, and provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section was not implemented.

Cross References — State aid to public schools generally, see §§ 37-45-1 et seq.

JUDICIAL DECISIONS

1. In general.

Where plaintiff parent sued defendant school district in state court alleging her child was sexually assaulted at school and obtained a judgment under the Mississippi Tort Claims Act, her later claims in federal court were properly held as barred due to res judicata; while school districts' sources of funding under Miss. Code Ann. §§ 37-45-21, 37-47-1 et seq., 37-57-1, 37-59-3, and 37-151-7 were equally divided between local school districts and the state under Miss. Code Ann. §§ 11-46-7, 11-46-16(2), and 11-46-17(2), any judgment against the school district would be paid through the Tort Claims Fund and excess liability insurance, and thus, the school district was not considered an arm of the state entitled to Eleventh Amendment immunity. Black v. N. Panola Sch. Dist., 461 F.3d 584 (5th Cir. 2006).

Codes 1942, §§ 6246-01 et seq., 6247-01 et seq., 6248-01 et seq., and 6274-01 et seq., are in pari materia with Code 1942, §§ 6328-01 et seq. Adams County v. State Educ. Fin. Comm'n, 229 Miss. 566, 91 So. 2d 524 (1956).

RESEARCH REFERENCES

Practice References. Mississippi School Laws Annotated (Michie).

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Vacca and Bosher, Law and Education: Contemporary Issues and Court Decisions (Matthew Bender).

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§ 37-47-3. "School district" defined.

The term "school district" as used in this chapter shall be defined as including all public school districts in this state and also all agricultural high schools not located on the campus of a junior college.

SOURCES: Codes, 1942, § 6247-03; Laws, 1953, Ex Sess, ch. 13, § 3; Laws, 1955, Ex Sess, ch. 48, § 1; Laws, 1964, ch. 384, §§ 1-3, eff from and after passage (approved April 15, 1964).

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-5. "Capital improvement" defined.

For the purposes of this chapter, the term "capital improvement" shall mean the cost of (1) erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including, but not being limited to, gymnasiums, auditoriums, lunch rooms, vocational training buildings, libraries, teachers' homes, school barns, garages for transportation vehicles, and (2) providing necessary water, lights, heating, air conditioning and sewerage facilities for school buildings. Such term shall not include the cost of the acquisition of land whereon to construct or establish any of the facilities named above.

SOURCES: Codes, 1942, § 6247-04; Laws, 1953, Ex Sess, ch. 13, § 4; Laws, 1992, ch. 524, § 15, eff from and after July 1, 1992.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-7. State public school building fund created.

There shall be, and there is hereby, created in the state treasury a special fund to be known as the "state public school building fund". The said fund shall consist of such amounts as may be paid into said fund by appropriation or other legislative authorization.

SOURCES: Codes, 1942, § 6247-02; Laws, 1953, Ex Sess, ch. 13, § 2, eff from and after July 1, 1954.

Cross References — Payments into state public school building fund from moneys collected under the Mississippi Sales Tax Law, see § 27-65-75.

§ 37-47-9. Annual grants by state.

It is found and determined that the state should make an annual grant of Twenty-four Dollars ($24.00) for each child in average daily attendance in the public schools of the various school districts of this state during each school year, and that such monies should be applied for the purpose of establishing and maintaining adequate physical facilities for the public school district and/or the payment of existing debt therefor.

The grant to which each public school is entitled under the provisions of this section shall be credited to the school district of which such school is part.

If any change is made in the operation or boundaries of any such school district, equitable reallocations shall be made by the commission of all balances to the credit of such school district, and all debits charged against the districts affected by the change in the boundaries or system of operation. The obligation of the state to make remittance of the sums appropriated or otherwise provided to make the annual grants provided by this section shall be subordinate to the pledge made to secure the state school bonds authorized under this chapter and the sinking fund created for their retirement. The grants shall be computed annually as soon as practicable after the end of the school year, and shall be based on the average daily attendance for such school year in all of the public schools operated by each school district as determined by the State Department of Education.

SOURCES: Codes, 1942, § 6247-03; Laws, 1953, Ex Sess, ch. 13, § 3; Laws, 1955, Ex Sess, ch. 48, § 1; Laws, 1964, ch. 384, §§ 1-3; Laws, 1975, ch. 320; Laws, 1993, ch. 602, § 12; Laws, 2013, ch. 497, § 84, eff from and after July 1, 2013.

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Amendment Notes — The 2013 amendment in the first paragraph inserted "of the various school districts" and substituted "school district" for "school system"; and substituted "The grant to which each" for "The grant to which a" at the beginning of the second paragraph.

§ 37-47-11. Order of priority of disposition of funds.

The sums becoming due to any school district shall be disposed of in the following order of priority and for the following purposes and for no others:

(a) To discharge the principal and interest due the commission by reason of any advance or loan made to any such school district by the commission;

(b) To be applied by the school district, subject to the approval of the commission, to defray the cost of any capital improvement;

(c) To pay the principal and interest of school district indebtedness represented by bonds or notes issued before July 1, 1954, for capital improvements, provided that the capital improvements for which such bonds or notes were issued fulfill the rules and requirement for new capital improvements and district organization as provided by the commission, or for bonds or notes issued on or after July 1, 1954, for capital improvements which have been approved by the commission as provided in this chapter.

SOURCES: Codes, 1942, § 6247-04; Laws, 1953, Ex Sess, ch. 13, § 4, eff from and after July 1, 1954.

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Cross References — Authority of state bond commission to issue state school bonds, see § 37-47-33.

§ 37-47-13. Certificates of credit.

When the amounts of the annual grants to school districts have been computed as provided in Section 37-47-9, the commission shall credit each such school district with the amount of the annual grant to which it is entitled and shall issue to each such school district a certificate of credit for the amount of such annual grant. All such certificates of credit shall be signed by the chairman of the commission and countersigned by the executive secretary thereof. Such certificates shall constitute an indebtedness of the State of Mississippi but shall be non-transferable and non-negotiable and shall bear no interest. All such certificates so issued shall be held and retained by the school district to which same are issued until the expenditure of the funds to the credit of such school district shall be approved by the commission as is otherwise provided in this chapter. Such certificates shall be surrendered to the commission at the time the funds to which the school district is entitled are withdrawn from the public school building fund and deposited to the credit of the school district entitled thereto.

SOURCES: Codes, 1942, § 6247-04; Laws, 1953, Ex Sess, ch. 13, § 4, eff from and after July 1, 1954.

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-15. Approval of use of grants; surveys and plans.

No grants accruing to any school district shall be expended for any purpose unless such expenditure has been approved by the commission. In order to guide the commission in passing upon requests for the use of grants, the school boards of the respective school districts are directed to prepare a survey of necessary capital improvements and/or a plan for tax relief on school indebtedness within each school district. Such surveys shall show existing facilities, desirable consolidations, the new construction and new facilities necessary and desirable for the efficient operation of the public schools of the school districts, proper compliance with state energy conservation standards, and the plan of tax reduction in the school districts by use of such funds in retiring any outstanding indebtedness for school facilities. The commission shall not approve any application for the use of funds of the said public school building fund from the school board of any school district until such time as an acceptable and reasonably satisfactory plan, looking particularly to efficiency through consolidations of school attendance centers, has been submitted by the school board.

Furthermore, the commission shall not approve any application for the use of funds of the public school building fund until such time as an acceptable plan has been submitted by the appropriate board which complies with improved design, heating, cooling, ventilation, lighting, insulation and architectural standards provided by the State of Mississippi to promote maximum energy conservation in new and existing public buildings.

All applications from school districts shall conform to the plan of the school board.

SOURCES: Codes, 1942, § 6247-05; Laws, 1953, Ex Sess, ch. 13, § 5; Laws, 1978, ch. 503, § 4; Laws, 1986, ch. 492, § 159, eff from and after July 1, 1987.

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Cross References — Authorization of districts to participate in loan plan for modification of energy inefficient buildings, see § 37-7-325.

Applications for expenditures, see § 37-47-17.

Certain bonds and notes need not be included in computing limitations of indebtedness, see § 37-59-9.

ATTORNEY GENERAL OPINIONS

Each county is required under Miss. Code Ann. § 19-7-1 to build a jail within the corporate limits of the municipality where the courts are required to sit. A municipality is obligated to grant a special exception to its zoning ordinances unless it is determined, consistent with the facts, that construction of a county jail would create a public nuisance or a clear and present danger to the public health and welfare. Yancey, Mitchell, March 23, 2007, A.G. Op. #07-00120, 2007 Miss. AG LEXIS 75.

§ 37-47-17. Applications for expenditures.

Applications for the expenditure of funds to the credit of any school district in the state public school building fund shall originate with the school board of the school district entitled to such funds. Before any funds to the credit of a school district shall be expended for capital improvements or the retirement of outstanding bonded indebtedness, the school board of such school district shall prepare and submit an application in such form as may be prescribed by the commission. There shall be included with such application a statement in which there is set forth the enrollment and average daily attendance in the schools of the district divided as to schools and grades, the number of teachers employed, the facilities in use, the facilities to be provided with the funds to be expended, the outstanding school indebtedness, and such other information as the commission may require. Such application and statement shall be submitted directly to the commission and approved or disapproved by it. The decision of the commission shall be final, unless an appeal to the chancery court shall be taken in the manner provided by law. In the event any application shall be disapproved by the commission, the school board submitting same shall be notified of such disapproval, which notice of disapproval shall be accompanied by a statement of the reason or reasons for such disapproval.

The commission shall approve only those applications which are found to be proper under the provisions of this chapter and the applicable rules and regulations of the commission. When an application is approved for the expenditure of funds for capital improvements, the contract for the construction of such capital improvements shall be entered into and awarded by the school board of the school district in the manner provided in this chapter; however, the contract for construction of a secondary vocational and technical training center for exclusive use and operation by a school district may be entered into and awarded by the board of trustees of a junior college district where a grant of federal funds by the Appalachian Commission has been made to the board of trustees of such junior college district to assist in financing construction of such secondary vocational and technical training facility for such school district.

SOURCES: Codes, 1942, § 6247-06; Laws, 1953, Ex Sess, ch. 13, § 6; Laws, 1972, ch. 316, § 1; Laws, 1986, ch. 492, § 160, eff from and after July 1, 1987.

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of

Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-19. Withdrawal of funds from public school building fund upon approval of expenditures.

Where the expenditure of any funds to which any school district may be entitled has been authorized, as provided in Section 37-47-17, such funds shall be withdrawn from the public school building fund by the commission and deposited in the school depository to the credit of the school district entitled thereto as a special fund to be known as the "Public School Building Fund" of the school district entitled thereto. Such money so deposited shall be paid out and expended in the same manner as may be now or hereafter provided by law for the expenditure of other school funds belonging to such district; however, where the contract for construction of a secondary vocational and technical training center shall have been entered into and awarded by the board of trustees of a junior college district as authorized by Section 37-47-29, the money so deposited in the public school building fund of the school district for which said facility is being constructed may be paid out and expended to pay a part of the cost of construction of such facility.

SOURCES: Codes, 1942, § 6247-06; Laws, 1953, Ex Sess, ch. 13, § 6; Laws, 1972, ch. 316, § 1; Laws, 1986, ch. 492, § 161, eff from and after July 1, 1987.

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

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§ 37-47-21. Disposition of funds credited to school district which fails to apply for expenditure.

All funds, if any, which may accumulate in the state public school building fund under the provisions of this chapter because school districts entitled thereto do not make application for the expenditure of same for the purposes authorized by this chapter at the time same are credited to such school district may be used as a revolving fund for the purpose of making loans or advances to other school districts as is provided in Section 37-47-25.

SOURCES: Codes, 1942, § 6247-04; Laws, 1953, Ex Sess, ch. 13, § 4, eff from and after July 1, 1954.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-23. Effect of insufficient funds in public school building fund.

When any school district holding certificates of credit shall desire to expend funds which have accumulated to its credit under the provisions of this chapter and the expenditure thereof has been approved by the commission but insufficient funds are available in the state public school building fund because of loans or advances having been made to other school districts, the commission shall forthwith transmit to the state bond commission its request for the issuance of state school bonds, as is otherwise provided in this chapter, in an amount sufficient to provide the funds to which the school district holding the certificate of credit is entitled, or such portion of such funds as such school district then desires to expend.

SOURCES: Codes, 1942, § 6247-04; Laws, 1953, Ex Sess, ch. 13, § 4, eff from and after July 1, 1954.

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

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Cross References — Authority of state bond commission to issue state school bonds, see § 37-47-33.

§ 37-47-25. Loans for capital improvements.

Whenever the State Department of Education shall determine that any school district is in need of capital improvements to an extent in excess of that which may be financed by the credit then due such school district by the department, the department shall be empowered to advance or lend said school district such sums as in the opinion of the department are necessary to be expended for capital improvements by said school district. Such loans or advances shall be evidenced by appropriate agreements, and shall be repayable in principal by the school district from the annual grants to which the school district shall become entitled and from such other funds as may be available. Such loans or advances shall not constitute a debt of the school district within the meaning of any provision or limitation of the Constitution or statutes of the State of Mississippi. The department shall not advance or lend to any school district any sum in excess of seventy-five percent (75%) of the estimated sum which will accrue to the said school district on account of grants to be made to the said school district within the twenty (20) years next following the date of the loan or advance. In determining the maximum allowable advance or loan, the department shall assume that the average daily attendance in the schools of the school district for the past preceding scholastic year as confirmed by the audit of average daily attendance made by the State Department of Audit will continue for the period during which the loan is to be repaid.

SOURCES: Codes, 1942, § 6247-07; Laws, 1953, Ex Sess, ch. 13, § 7; Laws, 1960, ch. 294, § 1; Laws, 1964, ch. 385, § 1; Laws, 1968, ch. 391, § 1; Laws, 1972, ch. 465, § 1; Laws, 1980, ch. 454, § 1; Laws, 1988, ch. 357; Laws, 1992, ch. 524, § 16; Laws, 1993, ch. 602, § 13; Laws, 1996, ch. 534, § 6, eff from and after July 1, 1996.

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of Education and that all references in laws of that state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-27. Requirement of contracts for capital improvements.

All capital improvements by any school district which are financed in whole or in part with funds received from the state public school building fund pursuant to an application approved by the commission, shall be constructed by contract entered into and awarded by the board of trustees or other governing body of such school district. The awarding of such contract shall be in the sole province of such board of trustees or other governing body except as is herein provided. No such contract shall be entered into unless and until the site for the location of and the plans and specifications for the construction of the capital improvements shall have been approved by the commission. The commission shall not exclude from approval plans and specifications which involve the use of preengineered steel building systems. Plans and specifications for preengineered steel building systems, in order to be approved by the commission, must be submitted to and certified by an architect or professional engineer registered in the State of Mississippi and not an employee of the contractor, as meeting the minimum requirements of the local building, plumbing and electrical codes, the Southern Standard Building Code, Coastal Region Loading, the Metal Building Manufacturers Association, the American Institute of Steel Construction and the American Iron and Steel Institute, as to design, materials and construction.

SOURCES: Codes, 1942, § 6247-08; Laws, 1953, Ex Sess, ch. 13, § 8; Laws, 1971, ch. 455, § 1, eff from and after passage (approved March 26, 1971).

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Laws, 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Cross References — Applications for expenditures, see §§ 37-47-17.

§ 37-47-29. Awarding of contracts for capital improvements.

All contracts for capital improvements by any school district which are financed in whole or in part with funds received from the state public school building fund pursuant to an application approved by the commission shall be awarded and entered into upon receipt of sealed bids or proposals after the time and place of letting such contracts and the manner of bidding has been duly advertised. The contract shall be let and awarded to the lowest and best bidder but the board of trustees or other governing body of the school district shall have the power to reject any and all bids. No such contract shall be finally awarded or entered into without the prior written approval of the commission. It is hereby expressly provided that in order to bid upon and be awarded contracts for the construction of school facilities under the provisions of this chapter, if such contract, subcontract or undertaking is less than Fifty Thousand Dollars ($50,000.00), it shall not be necessary that the bidder obtain a certificate of responsibility from the Board of Public Contractors under the provisions of Chapter 3, Title 31, of the Mississippi Code of 1972, or otherwise be qualified under said chapter, and none of the provisions of said chapter shall be applicable to such contracts for the construction of school facilities under the provisions hereof. Notwithstanding the foregoing provisions of this section or any other provisions of law, the contract for construction of a secondary vocational and technical training center for exclusive use and operation by a county school district may be entered into and awarded by the board of trustees of a junior college district where a grant of federal funds by the Appalachian Commission has been made to the board of trustees of such junior college district to assist in financing construction of such secondary vocational and technical training facility for such county school district.

SOURCES: Codes, 1942, § 6247-08; Laws, 1953, Ex Sess, ch. 13, § 8; Laws, 1971, ch. 455, § 1; Laws, 1972, ch. 316, § 2; Laws, 1996, ch. 534, § 7, eff from and after July 1, 1996.

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

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Cross References — Applications for expenditures, see § 37-47-17.

§ 37-47-31. Continuation and functions of state bond commission.

The state bond commission now consisting of the governor, attorney general and treasurer of the State of Mississippi, each acting ex officio, is hereby continued in existence for the purpose of this chapter and with full power and authority to issue state school bonds to the extent, for the purposes, and in the manner and subject to the limitations set forth in this chapter.

SOURCES: Codes, 1942, § 6247-09; Laws, 1953, Ex Sess, ch. 13, § 9; Laws, 1955, Ex Sess, ch. 57.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-33. Authorization of issuance of bonds by state bond commission; limitation on amount of bonds.

For the purpose of (a) providing funds to enable the State Board of Education to make loans or advances to school districts as provided by Section 37-47-25, and for the purpose of (b) providing funds for the payment and redemption of certificates of credit issued to school districts under Section 37-47-23, when such funds are not otherwise available, or for the purpose of (c) providing funds in an amount not exceeding Twenty Million Dollars

($20,000,000.00) for the payment of allocations of Mississippi Adequate Education Program funds to school districts for capital expenditures approved by the State Board of Education which have not been pledged for debt by the school district, when such funds are not otherwise available, or for any of such purposes, the State Bond Commission is authorized and empowered to issue state school bonds under the conditions prescribed in this chapter. The aggregate principal amount of such bonds outstanding at any one (1) time, after deducting the amount of the sinking fund provided for the retirement of bonds issued for such purposes, shall never exceed the sum of One Hundred Million Dollars ($100,000,000.00). Within such limits, however, state school bonds may be issued from time to time under the conditions prescribed in this chapter. None of such bonds so issued shall have a maturity date later than July 1, 2021.

SOURCES: Codes, 1942, § 6247-10; Laws, 1953, Ex Sess, ch. 13, § 10; Laws, 1955, Ex Sess, ch. 64, § 1; Laws, 1960, ch. 294, § 2; Laws, 1964, ch. 385, § 2; Laws, 1968, ch. 391, § 2; Laws, 1972, ch. 465, § 2; Laws, 1978, ch. 503, § 4; Laws, 1980, ch. 454, § 2; Laws, 2001, ch. 518, § 2, eff from and after passage (approved Mar. 30, 2001.)

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Laws of 2001, ch. 518, was House Bill No. 776, 2001 Regular Session, and originally passed both Houses of the Legislature on March 24, 2001. The Governor vetoed House Bill 776 on March 30, 2001. The veto was overridden by the State Senate and by the State House of Representatives on March 30, 2001.

Cross References — Additional powers conferred in connection with issuance of bonds, see § 37-47-49.

Issuance of school bonds generally, see §§ 37-59-1 et seq.

Mississippi Adequate Education program, see §§ 37-151-1 et seq.

§ 37-47-35. Request for issuance of bonds.

Before any state school bonds are issued as authorized by this chapter, the state educational finance commission shall transmit to the state bond commission a request for the issuance thereof in the form of a resolution adopted by said state educational finance commission. Said request shall embody the following:

(a) A schedule showing the aggregate of bonds issued pursuant to previous requests, the purposes for which the same were issued, the annual payments required to retire such bonds and the interest thereon, and the amount of sinking fund applicable to the retirement of such outstanding bonds;

(b) The amount of bonds sought to be issued, the purpose or purposes for which such bonds are to be issued, and the amount intended for each purpose;

(c) A schedule showing future annual principal requirements and estimated annual interest requirements on the bonds requested to be issued;

(d) The estimated amount of the advances which the commission intends to make within the then current fiscal year;

(e) The aggregate amount for which advances have been approved, but which await completion because the funds necessary to make the same are not available;

(f) The aggregate amount of certificates of credit issued to school districts which are to be paid or redeemed by the commission with the proceeds of such bonds and for which no funds are otherwise available.

SOURCES: Codes, 1942, § 6247-11; Laws, 1953, Ex Sess, ch. 13, § 11, eff from and after July 1, 1954.

Editor's Note — Section 37-45-3 provides that the "State Educational Finance Commission" shall be abolished and functions and duties transferred to State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Cross References — Issuance of school bonds generally, see §§ 37-59-1 et seq.

§ 37-47-37. Prerequisites to issuance of bonds.

If it shall appear to the satisfaction of the state bond commission from the request provided for in Section 37-47-35:

(a) That the estimate of the needs for the then current fiscal year as shown pursuant to the requirement of Section 37-47-35, requires bonds to be issued in the amount requested; and

(b) That the issue will be within the limitations prescribed by Section 37-47-33;

then it shall be the duty of the state bond commission to issue state school bonds in accordance with said request.

SOURCES: Codes, 1942, § 6247-12; Laws, 1953, Ex Sess, ch. 13, § 12; Laws, 1955, Ex Sess, ch. 56, § 1.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Cross References — Issuance of school bonds generally, see §§ 37-59-1 et seq.

§ 37-47-39. Full faith and credit of state pledged to pay bonds.

For the purpose of paying the principal of and interest upon all state school bonds issued under the authority of this chapter, there shall be and there is hereby pledged the full faith, credit, and taxing power of the State of Mississippi.

SOURCES: Codes, 1942, § 6247-13; Laws, 1953, Ex Sess, ch. 13, § 13, eff from and after July 1, 1954.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Cross References — Issuance of school bonds generally, see § 37-59-1 et seq.

§ 37-47-41. Execution of bonds; form, terms and conditions; redemption.

All state school bonds issued under the provisions of this chapter shall be signed by the governor, or by his facsimile signature, and attested by the secretary of state. The great seal of the State of Mississippi shall be affixed to or impressed upon each of them. Coupons attached to such bonds may bear only the facsimile signatures of both the governor and secretary of state. Subject to the provisions of this chapter the state bond commission shall have full discretion in providing for the issuance of such bonds and in fixing the terms and details thereof. Said state bond commission may provide for the issuance of such bonds in such form, either coupon or registered, with such registration privileges, and executed in such manner and payable in such medium and at such place or places, and containing such terms, covenants and provisions as the state bond commission may, by resolution or resolutions, provide. All or any part of the bonds issued under the authority of this chapter may be made optional for redemption prior to maturity in the discretion of the state bond commission, and in such case such bonds shall specify the manner in and premiums at which the bonds shall be so redeemable. Such bonds shall not be redeemable before maturity unless same expressly so provide.

SOURCES: Codes, 1942, § 6247-14; Laws, 1953, Ex Sess, ch. 13, § 14; Laws, 1958, ch. 293.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Cross References — Issuance of school bonds generally, see § 37-59-1 et seq.

§ 37-47-43. Printing of bonds; denominations; interest.

All bonds issued under the authority of this chapter shall be lithographed or engraved and printed in two (2) or more colors to prevent counterfeiting. Such bonds shall be issued in denominations as shall be specified by the State Bond Commission. No bond shall bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid; all bonds of the same maturity shall bear the same rate of interest from date to maturity; all interest accruing on such bonds so issued shall be payable semiannually or annually, except that the first interest coupon attached to any such bond may be for any period not exceeding one (1) year.

No interest payment shall be evidenced by more than one (1) coupon and neither cancelled nor supplemental coupons shall be permitted. The interest rate of any one (1) interest coupon shall not exceed eight percent (8%) except that the interest rate of any one (1) coupon issued after March 31, 1981, shall not exceed seven percent (7%).

SOURCES: Codes, 1942, § 6247-15; Laws, 1953, Ex Sess, ch. 13, § 15; Laws, 1973, ch. 313, § 1; Laws, 1980, ch. 438; Laws, 1993, ch. 472, § 1, eff from and after passage (approved March 27, 1993).

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-45. Maturity of bonds.

All bonds issued under the authority of this chapter shall mature annually. None of such bonds shall have a final maturity date of more than twenty (20) years from the date of the issuance thereof, and in no event shall the final maturity date of any such bonds be later than July 1, 2004. In issuing such bonds, the state bond commission shall be authorized and empowered to provide maturities therefor in such amounts and at such times as the state bond commission shall deem appropriate, proper and feasible. No bonds shall be issued and sold under the provisions of this chapter for less than par and accrued interest.

SOURCES: Codes, 1942, § 6247-16; Laws, 1953, Ex Sess, ch. 13, § 16; Laws, 1960, ch. 294, § 3; Laws, 1964, ch. 385, § 3; Laws, 1968, ch. 391, § 3; Laws, 1972, ch. 465, § 3; Laws, 1978, ch. 503, § 5, eff from and after July 1, 1978.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-47. Sale of bonds; disposition of proceeds of sale.

All state school bonds issued under the provisions of this chapter shall be sold by the said state bond commission upon sealed competitive bids or proposals after advertisement therefor and publication of the notice of such sale in the manner provided by law.

The proceeds of the sale of all state school bonds shall be placed in the "state public school building fund" and shall be expended only for the purposes authorized by this chapter. However, the premium, if any, received for any such bonds and the accrued interest paid thereon, if any, shall be placed in the sinking fund established for the payment of said bonds.

SOURCES: Codes, 1942, § 6247-17; Laws, 1953, Ex Sess, ch. 13, § 17, eff from and after July 1, 1954.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds, however, were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-49. Interim certificates; supplemental powers conferred in issuance of bonds.

In anticipation of the issuance of any bonds authorized under the provisions of this chapter, the state bond commission may authorize and issue interim certificates payable to bearer or to the purchaser of the bonds. Such interim certificates may be in such form and may contain such terms, conditions, or provisions and such agreement or agreements relative to their discharge, either through payment or through the delivery of the bonds, as the commission, by resolution or resolutions, determines.

Notwithstanding the foregoing provisions of this section, bonds referred to hereinabove may be issued pursuant to the supplemental powers and authorizations conferred by the provisions of the Registered Bond Act, being Sections 31-21-1 through 31-21-7.

SOURCES: Codes, 1942, § 6247-18; Laws, 1953, Ex Sess, ch. 13, § 18; Laws, 1983, ch. 494, § 14, eff from and after passage (approved April 11, 1983).

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-51. Negotiability of bonds and interim certificates.

All bonds issued under the provisions of this chapter and all interim certificates issued under the provisions of this chapter, except those fully registered, shall be fully negotiable within the meaning and for all the purposes of the Uniform Commercial Code.

SOURCES: Codes, 1942, § 6247-18; Laws, 1953, Ex Sess, ch. 13, § 18, eff from and after July 1, 1954.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Cross References — Law of negotiable instruments under the Uniform Commercial Code, see §§ 75-3-101 et seq.

§ 37-47-53. Exemption from taxation of bonds and interim certificates.

All bonds and interim certificates issued under the provisions of this chapter and all interest thereon and income therefrom shall be exempt from all taxation, except gift, transfer, and inheritance taxes.

SOURCES: Codes, 1942, § 6247-19; Laws, 1953, Ex Sess, ch. 13, § 19, eff from and after July 1, 1954.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-55. Duties of state treasurer.

The state treasurer shall keep a record in his office of the issuance of all bonds issued under the provisions of this chapter, and he shall execute a certificate to that effect on the back of each bond, which certificate may be signed by either the original or the facsimile signature of the state treasurer. The state treasurer shall also keep proper records relating to the sale and issuance of bonds under the provisions of this chapter, and the amounts received therefor and paid into the state treasury for the purposes provided in this chapter. He shall also keep a full and complete record of all registered bonds issued under the provisions of this chapter.

SOURCES: Codes, 1942, § 6247-20; Laws, 1953, Ex Sess, ch. 13, § 20, eff from and after July 1, 1954.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Cross References — Duties of state treasurer generally, see § 7-9-9.

§ 37-47-57. Payment of expenses of bond commission.

The state educational finance commission is hereby authorized and directed to pay, on approval of the governor, out of any funds derived from the issuance of state school bonds or otherwise in its hands and available for such purpose, any expense which may be incurred by the state bond commission or by the State of Mississippi or its officials in connection with the authorization and issuance of bonds and interim certificates under the provisions of this chapter, including the expense of preparing and delivering said bonds or interim certificates, legal fees, and all other expenses necessarily incurred in connection with the issuance, sale, and delivery of any such bonds and interim certificates.

SOURCES: Codes, 1942, § 6247-21; Laws, 1953, Ex Sess, ch. 13, § 21, eff from and after July 1, 1954.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

§ 37-47-59. Validation of bond issues.

All bonds issued under the authority of this chapter may, in the discretion of the state bond commission, be validated in the chancery court of Hinds County, Mississippi, in the manner and with the force and effect now or hereafter provided by Chapter 13, Title 31, of the Mississippi Code of 1972. In the event of such validation, the necessary papers shall be transmitted to the state bond attorney by the secretary of said state bond commission and the required notice shall be addressed to the taxpayers of the State of Mississippi and shall be published in a newspaper of general circulation published in the City of Jackson, Mississippi.

SOURCES: Codes, 1942, § 6247-22; Laws, 1953, Ex Sess, ch. 13, § 22, eff from and after July 1, 1954.

Editor's Note — Laws of 1990, ch. 588, § 74, repealed this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 588. However, funds were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the repeal of this section has not been implemented.

Cross References — Validation of public bonds, see §§ 31-13-1 et seq.

§ 37-47-61. Sinking fund.

For the purpose of providing for the payment of the principal of and interest upon bonds issued under the provisions of this chapter according to the terms thereof, there shall be and there is hereby established in the state treasury a sinking fund for such payment. Said sinking fund shall consist of the premiums and accrued interest paid upon any such bonds so issued and of such other amount as shall be paid into such fund by appropriation or other authorization by the legislature. In cases where the loan or advance to a school district was made from the proceeds of bonds issued under the provisions of this chapter, the state educational finance commission shall annually pay into said sinking fund the amounts of annual grants to which any school district is entitled and which are used for the repayment of the principal of and interest upon a loan or grant made to such school district under the authority of Section 37-47-25. However, where the loan or advance was made from accumulations in the state public school building fund the amounts of the annual grants to which the school districts are entitled which are used for the repayment of principal of and interest upon such loan or grant shall be paid into the state public school building fund and not into the bond and interest sinking fund.

SOURCES: Codes, 1942, § 6247-23; Laws, 1953, Ex Sess, ch. 13, § 23, eff from and after July 1, 1954.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance

Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-47-63. Construction of chapter; contract between bondholders and state.

In consideration of the acceptance and purchase of the bonds authorized under the provisions of this chapter, by those who shall hold the same from time to time, this chapter shall be deemed and shall constitute a contract between the State of Mississippi and such holders and shall be irrepealable until such time as all bonds and interim certificates issued under the provisions of this chapter shall have been fully paid.

SOURCES: Codes, 1942, § 6247-24; Laws, 1953, Ex Sess, ch. 13, § 24, eff from and July 1, 1954.

§ 37-47-65. Construction of chapter; power of school districts to raise funds.

Nothing in this chapter shall be construed to prohibit a school district from issuing its bonds, negotiable notes, or certificates of indebtedness for the purposes, in the manner, to the extent, and subject to the limitations provided by Sections 37-59-1 through 37-59-45, or any other applicable sections, and the authority granted by this chapter shall be construed as being additional, supplemental, and cumulative thereto. The proceeds of the sale of any such bonds, negotiable notes, or certificates of indebtedness so issued by any such school district may be used for the purpose for which they were issued and may be expended in conjunction with funds provided by the state educational finance commission under the provisions of this chapter, or may be expended without such funds, if same be not available.

SOURCES: Codes, 1942, § 6247-25; Laws, 1953, Ex Sess, ch. 13, § 25, eff from and after July 1, 1954.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — Issuance of school bonds generally, see §§ 37-59-1 et seq.

§ 37-47-67. Appeals.

Any county board of education or board of trustees of any school district, including a municipal separate school district, which may be aggrieved by any final rule, regulation, or order of the state educational finance commission adopted under the provisions of this chapter shall have the right to appeal therefrom to the chancery court of the county in which the school district involved or any part thereof is located in like manner, within the same time, with like effect, and subject in all other respects to appeals from orders, rules, and regulations of the state educational finance commission as provided in Chapter 45 of this Title, the provisions of which are hereby made applicable in all respects to appeals from orders, rules, and regulations of the commission under the provisions of this chapter.

SOURCES: Codes, 1942, § 6247-26; Laws, 1953, Ex Sess, ch. 13, § 26, eff from and after July 1, 1954.

Editor's Note — Section 37-45-3 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education and that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — Appeals to Chancery court under Chapter 45: procedure, appeal bonds, record on appeal, see §§ 37-45-51 through 37-45-59.

Appeals to Supreme Court under Chapter 45, see § 37-45-61.

CHAPTER 49

Loans to Students

Sec.
37-49-1. Short title.
37-49-3. Definitions.
37-49-5. Enforceability of written obligation of minor in consideration of educational loan.

§ 37-49-1. Short title.

This chapter may be cited as the "Uniform Minor Student Capacity to Borrow Law."

SOURCES: Codes, 1942, § 6232-101; Laws, 1970, ch. 270, § 1, eff from and after passage (approved March 3, 1970).

RESEARCH REFERENCES

Practice References. Mississippi School Laws Annotated (Michie).

Federal Education Laws and Regulations (Michie).

Vacca and Bosher, Law and Education: Contemporary Issues and Court Decisions (Matthew Bender).

Rapp, Education Law (Matthew Bender).

§ 37-49-3. Definitions.

As used in this chapter:

(a) "person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(b) "educational institution" means a university, college, community college, junior college, high school, technical, vocational or professional school, or similar institution, wherever located, approved or accredited by the state department of education for the purposes of this chapter, or by the appropriate official, department or agency of the state in which the institution is located; and

(c) "educational loan" means a loan or other aid or assistance for the purpose of furthering the obligor's education at an educational institution.

SOURCES: Codes, 1942, § 6232-102; Laws, 1970, ch. 270, § 2, eff from and after passage (approved March 3, 1970).

Cross References — Powers of the board of trustees of a community hospital or other health facility in a county or municipality to enter into loan or scholarship agreements for benefit of a hospital or health facility, see § 41-13-35.

§ 37-49-5. Enforceability of written obligation of minor in consideration of educational loan.

Any written obligation that is not usurious signed by a minor sixteen or more years of age in consideration of an educational loan received by him from any person is enforceable as if he were an adult at the time of execution, but only if prior to the making of the educational loan an educational institution has certified in writing to the person making the educational loan that the minor is enrolled, or has been accepted for enrollment, in the educational institution and only if the making of said educational loan is approved in writing prior to the making thereof by at least one parent, legal guardian or person in loco parentis to said minor.

The laws of the State of Mississippi regarding usury shall be applicable regarding all such loans.

SOURCES: Codes, 1942, § 6232-103; Laws, 1970, ch. 270, § 3, eff from and after passage (approved March 3, 1970).

Cross References — Eligibility for scholarships and loans based on compliance with federal Military Selective Service Act, see § 37-101-283.

Powers of the board of trustees of a community hospital or other health facility in a county or municipality to enter into loan or scholarship agreements for benefit of a hospital or health facility, see § 41-13-35.

Interest and usury, see §§ 75-17-1 et seq.

CHAPTER 51

Financial Assistance to Children Attending Nonsectarian Private Schools

Sec.
37-51-1. Legislative findings and declarations.
37-51-3. Administration of chapter.
37-51-5. State educational loan fund created.
37-51-7. General powers and duties of commission.
37-51-9. “Secular education of children” defined.
37-51-11. Eligibility for loans.
37-51-13. Applications for loans; certifications; transfers.
37-51-15. Limitations on amounts of loans.
37-51-17. Contract agreeing to terms and conditions of loans; suits on contracts.
37-51-19. Repayment of loans.
37-51-21. Reduction of loans.

§ 37-51-1. Legislative findings and declarations.

It is hereby determined and declared that the state reaffirms its commitment and dedication to public school education; that nothing contained in this chapter shall be construed in any manner whatever to be an abandonment or impairment of public school education in this state; that the state calls upon all public school trustees, administrators, teachers, parents, and the public at large to continue full support of the public school system of this state; and that, especially during these difficult times, all school officials, administrators, teachers and others with primary responsibility for the public school system merit and need continued support and encouragement in their efforts.

SOURCES: Codes, 1942, § 6248-122; Laws, 1969, Ex Sess, ch. 27, § 2, eff from and after passage (approved September 19, 1969).

JUDICIAL DECISIONS

1. In general.

A state statute under which teachers of secular subjects in church-related elementary schools might receive up to a 15% annual salary supplement, which statute required that the teacher be employed in a nonpublic school at which the average per-pupil expenditure on secular education was less than the public school average, that the nonpublic schools financial records be subject to audit by the state, that the teacher teach only subjects offered in public schools and using public school teaching materials, and agree in writing not to teach a course in religious instruction while receiving salary supplements, was unconstitutional under the religion clauses of the First Amendment, as fostering, by its cumulative impact, excessive entanglement between government and religion. Lemon v. Kurtzman, 403 U.S. 602, 91 S. Ct. 2105, 29 L. Ed. 2d 745 (1971), concurring opinion and dissenting opinions, 403 U.S. 602, 91 S. Ct. 2125, 29 L. Ed. 2d 745 (1971), reh’g denied, 404 U.S. 876, 92 S. Ct. 24, 30 L. Ed. 2d 123 (1971), on remand, 348 F. Supp. 300 (E.D. Pa. 1972).

A state statute under which financial aid was furnished to church-related elementary and secondary schools by way of the state’s “purchase” of certain “secular educational services” by reimbursing the schools for the cost of teachers’ salaries, textbooks and other materials in specified secular subjects, which statute provided that the nonpublic school seeking reimbursement maintain prescribed accounting procedures, that the accounts be subject to audit by the state, that books and other instructional materials be approved by the state, and prohibited reimbursement for any course containing subject matter expressing religious teaching or the morals or form of worship of any sect, was unconstitutional under the religion clauses of the First Amendment, as fostering, by its cumulative impact, excessive entanglement between government and religion. Lemon v. Kurtzman, 403 U.S. 602, 91 S. Ct. 2105, 29 L. Ed. 2d 745 (1971), concurring opinion and dissenting opinions, 403 U.S. 602, 91 S. Ct. 2125, 29 L. Ed. 2d 745 (1971), reh'g denied, 404 U.S. 876, 92 S. Ct. 24, 30 L. Ed. 2d 123 (1971), on remand, 348 F. Supp. 300 (E.D. Pa. 1972).

The Higher Education Facilities Act of 1963 (20 USCS §§ 701-758), insofar as it authorizes federal aid to church-related colleges and universities by way of construction grants for buildings and facilities to be used exclusively for secular educational purposes, does not violate the religion clauses of the First Amendment. Tilton v. Richardson, 403 U.S. 672, 91 S. Ct. 2091, 29 L. Ed. 2d 790 (1971).

The provisions of the higher education facilities act (20 USCS § 754) limiting to a 20-year period the government's interest in federally financed college or university facilities, which facilities must be used solely for secular educational purposes, and thereby allowing a church-related institution to use such facilities for sectarian instruction or religious worship after the expiration of 20 years, violate the religion clauses of the First Amendment, since it cannot be assumed that a building has no value after 20 years, so that the unrestricted use of it is, in effect, a contribution of value to a religious body, advancing religion. Tilton v. Richardson, 403 U.S. 672, 91 S. Ct. 2091, 29 L. Ed. 2d 790 (1971).

RESEARCH REFERENCES

ALR. Validity of, and sufficiency of compliance with, state standards for approval of private school to receive public placements of students or reimbursement for their educational costs. 48 A.L.R.4th 1231.

Am Jur. 68 Am. Jur. 2d, Schools §§ 468-470.

CJS. 78A C.J.S., Schools and School Districts §§ 1111-1116.

§ 37-51-3. Administration of chapter.

The terms and provisions of this chapter shall be administered and executed by the state educational finance commission. For the purpose of this chapter, the term "commission" shall mean "state educational finance commission" except where the context clearly indicates otherwise.

SOURCES: Codes, 1942, § 6248-121; Laws, 1969, Ex Sess, ch. 27, § 1, eff from and after passage (approved September 19, 1969).

Editor's Note — Section 37-45-3 provides that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — Duty of State Board of Education to administer and execute laws pertaining to state aid for construction of school facilities, see § 37-47-1 et seq.

§ 37-51-5. State educational loan fund created.

There shall be, and there is hereby, created in the state treasury, a special fund to be known as the "state educational loan fund." The said fund shall consist of such amounts as may be paid into said fund by appropriation and also such amounts as may be returned to said fund as repayments, both principal and interest, from loans provided for in this chapter.

SOURCES: Codes, 1942, § 6248-123; Laws, 1969, Ex Sess, ch. 27, § 3, eff from and after passage (approved September 19, 1969).

§ 37-51-7. General powers and duties of commission.

It shall be the duty of the commission to receive and pass upon, allow or disallow, all applications for loans made by students who desire to receive a secular education in any of the grades one through twelve in any school in this state constituting a bona fide school as defined in a general regulation of the commission, other than in the free public school system of this state, and who are acceptable for enrollment in any approved nonfree school system. The commission may make such investigation into the financial status of the parents of such students who apply for loans as it deems advisable, to determine the extent of the need for said loan. The commission may prescribe such rules and regulations as it may deem necessary and proper to carry out the purposes of this chapter.

The commission shall have the authority to grant loans from the "state educational loan fund" to such applicants as are qualified to receive them and on such terms as may be prescribed by regulation of the commission and by this chapter.

SOURCES: Codes, 1942, § 6248-124; Laws, 1969, Ex Sess, ch. 27, § 4, eff from and after passage (approved September 19, 1969).

Editor's Note — Section 37-45-3 provides that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

RESEARCH REFERENCES

ALR. Validity of, and sufficiency of compliance with, state standards for approval of private school to receive public placements of students or reimbursement for their educational costs. 48 A.L.R.4th 1231.

Am Jur. 68 Am. Jur. 2d, Schools §§ 468-470.

CJS. 78A C.J.S., Schools and School Districts §§ 1111-1116.

§ 37-51-9. "Secular education of children" defined.

The "secular education of children" as used in this chapter shall mean the education of children in those subjects, and only those subjects, which are required to be taught by state law to the same extent as those subjects are taught in the public schools of the state or which are provided in public schools throughout the state; it shall not include the education of children in any course in religion or any course expressing religious teaching or the morals or forms of worship of any sect.

SOURCES: Codes, 1942, § 6248-126; Laws, 1969, Ex Sess, ch. 27, § 6, eff from and after passage (approved September 19, 1969).

RESEARCH REFERENCES

ALR. Validity of, and sufficiency of compliance with, state standards for approval of private school to receive public placements of students or reimbursement for their educational costs. 48 A.L.R.4th 1231.

Constitutionality of teaching or suppressing teaching of Biblical creationism or Darwinian evolution theory in public schools. 102 A.L.R. Fed. 537.

Constitutionality of teaching or otherwise promoting secular humanism in public schools. 103 A.L.R. Fed. 538.

Lawyers' Edition. Establishment and free exercise of religion clauses of Federal Constitution's first Amendment as applied to public schools — Supreme Court Cases. 96 L. Ed. 2d 828.

§ 37-51-11. Eligibility for loans.

In addition to the requirements set out in Section 37-51-7, to be eligible for a loan an applicant must:

(a) Be a bona fide actual resident of the State of Mississippi; and

(b) Attend any bona fide approved nonfree elementary or secondary school.

SOURCES: Codes, 1942, § 6248-125; Laws, 1969, Ex Sess, ch. 27, § 5, eff from and after passage (approved September 19, 1969).

JUDICIAL DECISIONS

1.-10. [Reserved for future use.]
11. Under former law.

1.-10. [Reserved for future use.]

11. Under former law.

Code 1942, § 6248-101. The statute providing for state financial assistance in the form of tuition grants to students attending private schools encourages, facilitates, and supports the establishment of private schools operated on a racially segregated basis as an alternative available to white students seeking to avoid desegregated public schools, and such state tuition grants tend in a determinative degree to perpetuate segregation, thereby violating the equal protection clause of the Fourteenth Amendment. Coffey v. State Educ. Fin. Comm'n, 296 F. Supp. 1389 (S.D. Miss. 1969).

RESEARCH REFERENCES

ALR. Validity of, and sufficiency of compliance with, state standards for approval of private school to receive public placements of students or reimbursement for their educational costs. 48 A.L.R.4th 1231.

§ 37-51-13. Applications for loans; certifications; transfers.

An applicant shall not have to submit but one initial application for a loan; thereafter, he or she shall file a request for each additional year's loan amount up to the maximum amount allowed. Accompanying each said request shall be a certification from the school which applicant is attending certifying that the applicant is in attendance and in good standing.

Each application by or on behalf of said student shall be signed by and be made also in the name of the parent or legal guardian of said student if he or she be a minor. However, the parent or legal guardian shall not be considered the applicant for the purposes of the limitations in Section 37-51-15.

In the event that the applicant transfers to another approved school within the state, he shall cause the certification to immediately go forth to the commission, setting out the school from which and to which he has transferred.

SOURCES: Codes, 1942, §§ 6248-126, 6248-127; Laws, 1969, Ex Sess, ch. 27, §§ 6, 7, eff from and after passage (approved September 19, 1969).

Editor's Note — Section 37-45-3 provides that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

RESEARCH REFERENCES

ALR. Validity of, and sufficiency of compliance with, state standards for approval of private school to receive public placements of students or reimbursement for their educational costs. 48 A.L.R.4th 1231.

§ 37-51-15. Limitations on amounts of loans.

Applicants who are granted loans may receive a loan in any amount, not exceeding two thousand four hundred dollars ($2,400.00) to any one applicant. Said amount is to be paid in annual, semiannual or quarterly installments not exceeding two hundred dollars ($200.00) per school year, and shall be used to defray part of the applicant's tuition and other costs of attending said schools. The loans herein provided shall not exceed the limitations set out above, but they may be for any such lesser amounts as may be required.

SOURCES: Codes, 1942, § 6248-126; Laws, 1969, Ex Sess, ch. 27, § 6, eff from and after passage (approved September 19, 1969).

RESEARCH REFERENCES

ALR. Validity of, and sufficiency of compliance with, state standards for approval of private school to receive public placements of students or reimbursement for their educational costs. 48 A.L.R.4th 1231.

§ 37-51-17. Contract agreeing to terms and conditions of loans; suits on contracts.

Each applicant, if an adult, or his parent or legal guardian in his behalf, if a minor, before being granted a loan shall enter into a contract with the State of Mississippi agreeing to the terms and conditions upon which the loan shall be made. Said contract shall include such terms and conditions as are necessary to carry out the full purpose and intent of this chapter. The form of said contract shall be prepared and approved by the attorney general of this state, and said contract shall be signed by the executive secretary of the commission.

The commission is hereby vested with full and complete authority to sue in its own name any applicant for any balance due the state on any such contract. Such suit shall be filed and conducted by the attorney general of the State of Mississippi, or by private counsel, which the commission is hereby authorized to employ for such purpose.

SOURCES: Codes, 1942, § 6248-127; Laws, 1969, Ex Sess, ch. 27, § 7, eff from and after passage (approved September 19, 1969).

Editor's Note — Section 37-45-3 provides that all references in laws of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — Suits by state attorney general generally, see §§ 7-5-37, 7-5-39.

RESEARCH REFERENCES

ALR. Validity of, and sufficiency of compliance with, state standards for approval of private school to receive public placements of students or reimbursement for their educational costs. 48 A.L.R.4th 1231.

§ 37-51-19. Repayment of loans.

Any loans made or granted to any applicant shall be made and based upon the following conditions of repayment:

(a) Repayment in full of the principal of the loan may be made at any time prior to three years after graduation from or termination of attendance in an approved school, plus simple interest at the rate of three percent per annum from the date of each payment made to applicant.

(b) Repayment of the principal of the loan after three years from the date of graduation from or termination of attendance in an approved school shall be with interest at the rate of four percent per annum from the date of each payment made to applicant. From and after the fourth year following graduation or termination of attendance in an approved school, the rate of interest to be paid on the remaining unpaid balance, after such fourth year, shall increase at the rate of one-half percent per annum to a maximum of eight percent.

(c) No applicant shall be entitled to more than twelve years after said graduation or termination of attendance in an approved school within which to repay said loan.

SOURCES: Codes, 1942, § 6248-128; Laws, 1969, Ex Sess, ch. 27, § 8, eff from and after passage (approved September 19, 1969).

RESEARCH REFERENCES

ALR. Validity of, and sufficiency of compliance with, state standards for approval of private school to receive public placements of students or reimbursement for their educational costs. 48 A.L.R.4th 1231.

§ 37-51-21. Reduction of loans.

The amount of any loan made or granted to any applicant shall be reduced by a credit at the rate of one hundred dollars ($100.00) per annum for each year from and after five years from the initial date of the granting of said loan that applicant continues to reside in the State of Mississippi.

In addition, the amount of said loan shall be reduced by a credit at the rate of one hundred dollars ($100.00) per annum for each year that applicant continues his education at any junior college, college or university within the State of Mississippi after his graduation or termination from secondary school.

In addition, the amount of said loan shall be reduced by a credit at the rate of two hundred dollars ($200.00) per annum for each year that applicant resides within the state and teaches in any school system therein, beginning from the date of his certification or licensing by the state department of education to teach in any such system.

SOURCES: Codes, 1942, § 6248-128; Laws, 1969, Ex Sess, ch. 27, § 8, eff from and after passage (approved September 19, 1969).

RESEARCH REFERENCES

ALR. Validity of, and sufficiency of compliance with, state standards for approval of private school to receive public placements of students or reimbursement for their educational costs. 48 A.L.R.4th 1231.

CHAPTER 53

Summer Normals

Sec.	
37-53-1.	When and how held.
37-53-3.	Payment of expenses from institute or summer school fund.
37-53-5.	Issuance of pay certificates when amount of institute or summer school fund insufficient.
37-53-7.	Disposition of surplus of institute or summer school fund.

§ 37-53-1. When and how held.

A teachers' institute or summer school shall be held each year in the several counties of the state, or in such groups of counties as the state superintendent of public education, with the consent of the county superintendent of education of each county affected, may designate. All summer schools or institutes shall be under the direction of the state superintendent of public education who is hereby authorized, with the approval of the county superintendents of education respectively for whose counties said schools are held, to appoint persons of recognized ability to conduct and teach said institutes or summer schools. The state department of education shall prepare outlines for the work, prescribe regulations for the management of the institutes or summer schools, and fix the amount to be paid the conductors and instructors and for the incidental expenses thereof. The state department of education shall require such reports of the conductors as may be deemed necessary.

SOURCES: Codes, 1930, § 6742; 1942, § 6580; Laws, 1924, ch. 283; Laws, 1930, ch. 278.

§ 37-53-3. Payment of expenses from institute or summer school fund.

To defray the cost of institutes or summer schools, the county superintendent of education shall, before entering into contracts with teachers to teach, collect a fee of fifty cents from each for each year of the period contracted for. The institute or summer school fund shall be deposited, as collected, in the county treasury on receipt warrant of the clerk of the board of supervisors, and a separate account thereof shall be kept. It shall be paid only for the purpose mentioned in this chapter, upon requisition of the county superintendent of education, on warrants issued by the clerk of the board of supervisors.

SOURCES: Codes, 1930, § 6743; 1942, § 6581; Laws, 1924, ch. 283; Laws, 1930, ch. 278.

Cross References — Teachers' or licensed employees contracts generally, see § 37-9-17.

§ 37-53-5. Issuance of pay certificates when amount of institute or summer school fund insufficient.

If the amount of the institute or summer school fund is insufficient to defray the cost of holding the institutes or summer schools, the state superintendent of public education may authorize the county superintendent of education to issue a pay certificate on the common school fund of the county to make up the deficit not to exceed one hundred and fifty dollars for one scholastic year.

SOURCES: Codes, 1930, § 6744; 1942, § 6582; Laws, 1924, ch. 283; Laws, 1930, ch. 278.

§ 37-53-7. Disposition of surplus of institute or summer school fund.

In any county having a surplus of the institute or summer school fund, the county superintendent may expend annually twenty per centum of such funds in the purchase of works on teaching, which the county superintendent shall keep in his charge for the use of teachers.

SOURCES: Codes, 1930, § 6745; 1942, § 6583; Laws, 1924, ch. 283; Laws, 1930, ch. 278.

CHAPTER 55

School Libraries

Sec.
37-55-1. County library commission; annual library report.
37-55-3. Grants of aid to school libraries from school funds.
37-55-5. Appropriations by county boards of supervisors for support of libraries.

§ 37-55-1. County library commission; annual library report.

The county superintendent of education shall name two first grade teachers who, together with the county superintendent, shall constitute a county library commission. It shall be the duty of this commission to name a list of books suited for school libraries, and all books purchased under this chapter shall be selected from this list. It shall be the duty of this commission to make rules and regulations to govern and control the use of such libraries in the county, and the commission shall name a local manager of each library who shall make a report every year to the county commission of all books purchased during the year, of the money on hand at the time of the report, together with the amount expended for library purposes. The county superintendent shall keep a list of books purchased by the several libraries of his county and make a library report to the state superintendent of education annually with the county school report.

SOURCES: Codes, 1930, § 6787; 1942, § 6630; Laws, 1924, ch. 283; Laws, 1930, ch. 278; Laws, 1970, ch. 386, § 1, eff from and after July 1, 1970.

Cross References — Duties of state library commission, see § 39-3-107.

RESEARCH REFERENCES

CJS. 78 C.J.S., Schools and School Districts § 556.

§ 37-55-3. Grants of aid to school libraries from school funds.

When any public free school in this state shall raise not less than ten dollars by subscription or otherwise for a library for such school, and shall furnish suitable bookcases with lock and key, the superintendent of education of the county where such subscription is raised may issue his certificate for a like amount not exceeding twenty-five dollars in favor of such school, to be paid out of the common school fund of that county. In no case shall the amount given by the county in any one year exceed two hundred and fifty dollars. No school shall receive a second donation from the school fund for library purposes so long as there are any new applications from schools that have not been supplied.

SOURCES: Codes, 1930, § 6786; 1942, § 6629; Laws, 1924, ch. 283; Laws, 1930, ch. 278.

Cross References — Exemption of public library property from state, county and municipal taxation, see § 27-31-21.

Establishment and maintenance of free public libraries generally, see § 39-3-1.

Funds for establishment and maintenance of free public libraries, see § 39-3-3.

County and municipal taxes for support of free public libraries, see §§ 39-3-5, 39-3-7.

Regional libraries, see § 39-3-9.

RESEARCH REFERENCES

CJS. 78 C.J.S., Schools and School Districts § 556.

§ 37-55-5. Appropriations by county boards of supervisors for support of libraries.

The board of supervisors of any county is authorized, in its discretion, to appropriate a sum not to exceed three thousand dollars per annum towards the support of public libraries, including circulating school libraries, in said county.

In counties where the enumeration of educable children is shown by the most recent census to be 10,000 or more, the board of supervisors may, in its discretion, appropriate an amount not to exceed ten thousand dollars annually, towards the support of public or school libraries.

SOURCES: Codes, 1930, § 6788; 1942, § 6631; Laws, 1930, ch. 278.

Cross References — Funds for establishment and maintenance of free public libraries, see § 39-3-3.

County taxes for support of free public libraries, see § 39-3-5.

CHAPTER 57

Taxation

Tax Levy for Support of Adequate Education Program 37-57-1
Additional Tax Levy to Cover Expenses, Funds for Which Are Not Provided by Minimum Education Program. [Repealed]
Additional Tax Levy Upon Petition of Board of Trustees of School Districts. [Repealed]
Additional Tax Levy for General School Purposes. [Repealed]
Additional Tax Levy for Benefit of Consolidated School Districts. [Repealed]
Additional Tax Levy for Increasing Teachers' Salaries. [Repealed]
Additional Tax Levy for Capital Outlay and Non-maintenance Operations. [Repealed]
Additional Tax Levy to Support School Districts' Expenditures 37-57-101
Tax on Family Dwelling Units 37-57-111
Miscellaneous 37-57-121

TAX LEVY FOR SUPPORT OF ADEQUATE EDUCATION PROGRAM

Sec.
37-57-1. Tax levy by counties for adequate education program.
37-57-3 through 37-57-7. Repealed.

§ 37-57-1. Tax levy by counties for adequate education program.

(1)(a) The boards of supervisors of the counties shall levy and collect all taxes for and on behalf of all school districts which were within the county school system or designated as special municipal separate school districts prior to July 1, 1986. Such taxes shall be collected by the county tax collector at the same time and in the same manner as county taxes are collected by him, and the same penalties for delinquency shall be applicable.

The governing authorities of the municipalities shall levy and collect all taxes for and on behalf of all school districts which were designated as municipal separate school districts prior to July 1, 1986. Such taxes shall be collected by the municipal tax collector at the same time and in the same manner as municipal taxes are collected by him, and the same penalties for delinquency shall be applicable.

Except as otherwise provided in Section 19-9-171, the county or municipal tax collector, as the case may be, shall pay such tax collections, except for taxes collected for the payment of the principal of and interest on school bonds or notes and except for taxes collected to defray collection costs, into the school depository and report to the school board of the appropriate school district at the same time and in the same manner as the tax collector makes his payments and reports of other taxes collected by him.

Provided, however, the State Board of Education shall determine the appropriate levying authority for any school district created or reorganized after July 1, 1987.

(b) For the purposes of this chapter and any other laws pertaining to taxes levied or bonds or notes issued for and on behalf of school districts, the term “levying authority” means the board of supervisors of the county or the governing authorities of the municipality, whichever levies taxes for and on behalf of the particular school district as provided in paragraphs (a) and (b) of this subsection.

(2) The levying authority for the school district shall, at the same time and in the same manner as other taxes are levied by the levying authority, levy a tax of not less than twenty-eight (28) mills for the then current fiscal year, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grant to the school district as determined by the State Department of Education or twenty-seven percent (27%) of the basic adequate education program cost for such school district, whichever is a lesser amount, upon all of the taxable property of the school district, as required under Section 37-151-7(2) (a). However, in no case shall the minimum local ad valorem tax effort for any school district be equal to an amount that would require a millage rate exceeding fifty-five (55) mills in that school district. Provided, however, that if a levying authority is levying in excess of fifty-five (55) mills on July 1, 1997, the levying authority may levy an additional amount not exceeding three (3) mills in the aggregate for the period beginning July 1, 1997, and ending June 30, 2003, subject to the limitation on increased receipts from ad valorem taxes prescribed in Sections 37-57-105 and 37-57-107. Nothing in this subsection shall be construed to require any school district that is levying more than fifty-five (55) mills pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage rate to fifty-five (55) mills or less. In making such levy, the levying authority shall levy an additional amount sufficient to cover anticipated delinquencies and costs of collection so that the net amount of money to be produced by such levy shall be equal to the amount which the school district is required to contribute as its said minimum local ad valorem tax effort. The tax so levied shall be collected by the tax collector at the same time and in the same manner as other ad valorem taxes are collected by him. The amount of taxes so collected as a result of such levy shall be paid into the district maintenance fund of the school district by the tax collector at the same time and in the same manner as reports and payments of other ad valorem taxes are made by said tax collector, except that the amount collected to defray costs of collection may be paid into the county general fund. The levying authority shall have the power and authority to direct and cause warrants to be issued against such fund for the purpose of refunding any amount of taxes erroneously or illegally paid into such fund where such refund has been approved in the manner provided by law.

SOURCES: Codes, 1942, § 6518-01; Laws, 1954, ch. 261, § 1; Laws, 1986, ch. 492, § 162; Laws, 1988, ch. 466, § 10; Laws, 1988 Ex Sess, ch. 30, § 1; Laws, 1990, ch. 495, § 1; Laws, 1997, ch. 612, § 22; Laws, 2007, ch. 533, § 3, eff from and after passage (approved Apr. 18, 2007.)

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Laws of 2007, ch. 533, § 6 provides as follows:

"SECTION 6. Section 5 of this act shall take effect and be in force from and after October 1, 2007. The remainder of this act shall take effect and be in force from and after its passage."

Cross References — Homestead exemptions, see § 27-33-3.

Provision that board of supervisors of county may authorize general fund expenditures for school purposes when necessary to meet the minimum local ad valorem tax effort required by this section, see § 27-39-303.

Levy of county taxes for school purposes, see § 27-39-317.

Authority of school district to purchase commodities from vendors with which any levying authority of the school district, as defined in this section, has contracted, see § 31-7-12.

Provision of the Emergency School Leasing Authority Act of 1986, to effect that total annual lease payments over a five-year period shall not exceed ten percent of the total annual revenues produced under this section and §§ 37-7-739, and 37-57-105, see § 37-7-359.

Application of this section to contracts entered into by school boards after July 1, 1987, see § 37-7-409.

Funds for joint construction of buildings or operation of schools, see § 37-7-409.

Levy by board of supervisors to cover expenses, funds for which are not provided by minimum program fund allotments, see § 37-57-105.

Limitation on increases of taxes levied for school district purposes and disposition of excess revenue, see § 37-57-107.

Levy of a special tax on property within the school district, see § 37-59-23.

Investment of excess or surplus funds by levying authority, see § 37-59-43.

Penalties for failure to comply with provisions of this section, see § 37-61-27.

JUDICIAL DECISIONS

1. In general.

Where plaintiff parent sued defendant school district in state court alleging her child was sexually assaulted at school and obtained a judgment under the Mississippi Tort Claims Act, her later claims in federal court were properly held as barred due to res judicata; while school districts' sources of funding under Miss. Code Ann. §§ 37-45-21, 37-47-1 et seq., 37-57-1, 37-59-3, and 37-151-7 were equally divided between local school districts and the state under Miss. Code Ann. §§ 11-46-7, 11-46-16(2), and 11-46-17(2), any judgment against the school district would be paid through the Tort Claims Fund and excess liability insurance, and thus, the school district was not considered an arm of the state entitled to Eleventh Amendment immunity. Black v. N. Panola Sch. Dist., 461 F.3d 584 (5th Cir. 2006).

The Rankin County school system is a locally controlled institution which is supported largely by local revenues and, therefore, the Eleventh Amendment does not bar the award of back pay to teachers who were reinstated pursuant to the district court's order in a school desegregation case. Adams v. Rankin County Bd. of Educ., 524 F.2d 928 (5th Cir. 1975), cert. denied, 438 U.S. 904, 98 S. Ct. 3121, 57 L. Ed. 2d 1146 (1978).

ATTORNEY GENERAL OPINIONS

Clear intent of Mississippi Code Annotated Section 37-57-1(2) is to provide means to offset entire cost of collection incurred by municipality and if levy produces funds in excess of actual cost of collection, excess must be taken into consideration by reducing levy for following year by an appropriate amount and conversely, any deficit may be considered in determining necessary levy to offset cost of collection in following year to insure that entire expense of such collection each year is paid from proceeds of levy. Austin, Jan. 5, 1994, A.G. Op. #93-0979.

A school district may not lawfully reserve/segregate ad valorem tax receipts (attributed to a specific tax payer) in a permanent trust fund. Pate, January 15, 1999, A.G. Op. #98-0775.

It is the municipality that is authorized and empowered to grant a fee in lieu of taxes with regard to a municipal separate school district. Pittman, Nov. 10, 2000, A.G. Op. #2000-0670.

Although a proposed industrial development is located outside the corporate limits of a municipality, a county board of supervisors does not have the authority to levy an ad valorem school tax when the site is within the municipal separate school district. The municipality has sole jurisdiction in levying a school tax on property located within the municipal separate school district. Allen, Mar. 3, 2004, A.G. Op. 04-0041.

RESEARCH REFERENCES

ALR. Validity of basing public school financing system on local property taxes. 41 A.L.R.3d 1220.

Am Jur. 67B Am. Jur. 2d, Schools §§ 58 et seq.

CJS. 78A C.J.S., Schools and School Districts §§ 789 et seq.

Practice References. Mississippi School Laws Annotated (Michie).

Federal Education Laws and Regulations (Michie).

Vacca and Bosher, Law and Education: Contemporary Issues and Court Decisions (Matthew Bender).

Rapp, Education Law (Matthew Bender).

§§ 37-57-3 through 37-57-7. Repealed.

Repealed by Laws, 1986, ch. 492, § 189, eff from and after July 1, 1987.

§ 37-57-3. [Codes, 1942, § 6518-02; Laws, 1954, ch. 261, § 2]

§ 37-57-5. [Codes, 1942, § 6518-03; Laws, 1954, ch. 261, § 3]

§ 37-57-7. [Codes, 1942, § 6518-04; Laws, 1954, ch. 261, § 4; Laws, 1958, ch. 305]

Editor's Note — Former § 37-57-3 provided tax levy by municipalities for minimum education program. For present similar provisions, see § 37-57-1.

Former § 37-57-5 provided for borrowing money where tax does not equal required amount.

Former § 37-57-7 stated the effect of deficiency or surplus in amount of ad valorem tax collected by county or municipal school district.

ADDITIONAL TAX LEVY TO COVER EXPENSES, FUNDS FOR WHICH ARE NOT PROVIDED BY MINIMUM EDUCATION PROGRAM [REPEALED]

SEC.
37-57-21 through 37-57-35. Repealed.

§§ 37-57-21 through 37-57-35. Repealed.

Repealed by Laws, 1983, ch. 471, § 28, eff from and after July 1, 1983.

§§ 37-57-21 through 37-57-25. [Codes, 1942, § 6518-05; Laws, 1954, ch. 261, § 5; Laws, 1956, ch. 274, §§ 1, 2; Laws, 1962, ch. 359]

§ 37-57-27. [Codes, 1942, § 6518-05; Laws, 1954, ch. 261, § 5; Laws, 1956, ch. 274, §§ 1, 2; Laws, 1962, ch. 359; Laws, 1975, ch. 411; Laws, 1977, ch. 324]

§ 37-57-29 through 37-57-33. [Codes, 1942, § 6518-05; Laws, 1954, ch. 261, § 5; Laws, 1956, ch. 274, §§ 1, 2; Laws, 1962, ch. 359]

§ 37-57-35. [Codes, 1942, § 6518-06; Laws, 1954, ch. 261, § 6]

Editor's Note — Former § 37-57-21 provided for levy by board of supervisors upon request of board of trustees of school districts.

Former § 37-57-23 provided for election on tax question upon board's failure to levy full amount requested or reduction of existing levy.

Former § 37-57-25 provided for election to reduce levy pursuant to board's order or electorate petition.

For present provisions similar to §§ 37-57-21 through 37-57-25, see §§ 37-57-105 and 37-57-107.

Former § 37-57-27 provided for levy by board of supervisors for benefit of certain consolidated school districts.

Former § 37-57-29 stated the procedure when tax pursuant to former § 37-57-27 was levied in home county of a line school district.

Former § 37-57-31 provided for levy of additional tax where levy under former § 37-57-27 was less than levy under §§ 37-57-21 to 37-57-25.

Former § 37-57-33 provided that former §§ 37-57-21 to 37-57-31 were supplemental; also provided for twenty-five mill limitation on tax levies in school districts.

For present provisions similar to §§ 37-57-29 through 37-57-33, see §§ 37-57-105 and 37-57-107.

Former § 37-57-35 provided for levy by municipal governing authorities for benefit of municipal separate school districts.

ADDITIONAL TAX LEVY UPON PETITION OF BOARD OF TRUSTEES OF SCHOOL DISTRICTS
[REPEALED]

SEC.
37-57-51 through 37-57-53. Repealed.

§§ 37-57-51 through 37-57-53. Repealed.

Repealed by Laws, 1983, ch. 471, § 28, eff from and after July 1, 1983.

§ 37-57-51. [Codes, 1942, §§ 6518-07, 6518-07.5; Laws, 1954, ch. 261, § 7; Laws, 1962, ch. 360, §§ 1, 3]

§ 37-57-53. [Codes, 1942, § 6518-10; Laws, 1954, ch. 261, § 10]

Editor's Note — Former § 37-57-51 provided for levy by boards of supervisors or municipal governing authorities upon petition of school boards of trustees.

Former § 37-57-53 stated the procedure where tax was sought in district lying in two or more counties.

ADDITIONAL TAX LEVY FOR GENERAL SCHOOL PURPOSES [REPEALED]

SEC.
37-57-61. Repealed.

§ 37-57-61. Repealed.

Repealed by Laws, 1983, ch. 471, § 28, eff from and after July 1, 1983. [Codes, 1942, § 6518-05.5; Laws, 1968, ch. 407, §§ 1-3]

Editor's Note — Former § 37-57-61 provided for levy by boards of supervisors or municipal governing authorities for general school purposes.

ADDITIONAL TAX LEVY FOR BENEFIT OF CONSOLIDATED SCHOOL DISTRICTS [REPEALED]

SEC.
37-57-71. Repealed.

§ 37-57-71. Repealed.

Repealed by Laws, 1983, ch. 471, § 28, eff from and after July 1, 1983. [Codes, 1942, § 6518-05.7; Laws, 1970, ch. 357, §§ 1-3]

Editor's Note — Former § 37-57-71 provided for levy by boards of supervisors for benefit of consolidated school districts.

ADDITIONAL TAX LEVY FOR INCREASING TEACHERS' SALARIES [REPEALED]

SEC.
37-57-81. Repealed.

§ 37-57-81. Repealed.

Repealed by Laws, 1983, ch. 471, § 28, eff from and after July 1, 1983. [Codes, 1942, §§ 6518-06.5, 6518-06.7, 6518-06.9; Laws, 1966, ch. 314, §§ 1, 2; ch. 434, §§ 1-4; Laws, 1968, ch. 299, §§ 1-3; Laws, 1970, ch. 382, § 1]

Editor's Note — Former § 37-57-81 provided for levy by boards of supervisors or municipal governing authorities for increase of teachers' salaries.

ADDITIONAL TAX LEVY FOR CAPITAL OUTLAY AND NON-MAINTENANCE OPERATIONS [REPEALED]

SEC.
37-57-91. Repealed.

§ 37-57-91. Repealed.

Repealed by Laws, 1983, ch. 471, § 28, eff from and after July 1, 1983. [Codes, 1942, § 6519.5; Laws, 1955, Ex Sess, ch. 59, §§ 1, 2]

Editor's Note — Former § 37-57-91 provided for levy by boards of supervisors or municipal governing authorities for capital outlay or non-maintenance operations.

ADDITIONAL TAX LEVY TO SUPPORT SCHOOL DISTRICTS' EXPENDITURES

SEC.
37-57-101 through 37-57-103. Repealed.
37-57-104. Ad valorem tax effort; calculation of millage rate.
37-57-105. Authorization and procedure for levy.
37-57-107. Limitation on aggregate receipts from taxes for school purposes; disposition of excess receipts.
37-57-108. Issuance of promissory notes by school districts in event of revenue shortfall.

§§ 37-57-101 through 37-57-103. Repealed.

Repealed by Laws, 1983, ch. 471, § 28, eff from and after July 1, 1983.

§ 37-57-101. [Codes, 1942, §§ 6518-21, 6518-22, 6518-23, 6518-24, 6518-26; Laws, 1968, ch. 421, §§ 1-4, 6; Laws, 1969, Ex Sess, ch. 29, § 1]

§ 37-57-103. [Codes, 1942, § 6518-25; Laws, 1968, ch. 421, § 5]

Editor's Note — Former § 37-57-101 provided for additional levy by boards of supervisors or municipal governing authorities to support school districts' expenditures.

Former § 37-57-103 provided for elections to approve additional levies under provisions of former § 37-57-101.

For present similar provisions, see §§ 37-57-105 through 37-57-107.

§ 37-57-104. Ad valorem tax effort; calculation of millage rate.

(1) Each school board shall submit to the levying authority for the school district a certified copy of an order adopted by the school board requesting an ad valorem tax effort in dollars for the support of the school district. The copy of the order shall be submitted by the school board when the copies of the school district's budget are filed with the levying authority pursuant to Section 37-61-9. Upon receipt of the school board's order requesting the ad valorem tax effort in dollars, the levying authority shall determine the millage rate necessary to generate funds equal to the dollar amount requested by the school board. For the purpose of calculating this millage rate, any additional amount that is levied pursuant to Section 37-57-105(1) to cover anticipated delinquencies and costs of collection or any amount that may be levied for the payment of the principal and interest on school bonds or notes shall be excluded from the limitation of fifty-five (55) mills provided for in subsection (2) of this section.

(2)(a) Except as otherwise provided under paragraph (b) or (c) of this subsection, if the millage rate necessary to generate funds equal to the dollar amount requested by the school board is greater than fifty-five (55) mills, and if this millage rate is higher than the millage then being levied pursuant to the school board's order requesting the ad valorem tax effort for the currently existing fiscal year, then the levying authority shall call a referendum on the question of exceeding, during the next fiscal year, the then existing millage rate being levied for school district purposes. The referendum shall be scheduled for not more than six (6) weeks after the date on which the levying authority receives the school board's order requesting the ad valorem tax effort.

When a referendum has been called, notice of the referendum shall be published at least five (5) days per week, unless the only newspaper published in the school district is published less than five (5) days per week, for at least three (3) consecutive weeks, in at least one (1) newspaper published in the school district. The notice shall be no less than one-fourth (¼) page in size, and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The notice may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The first publication of the notice shall be made not less than twenty-one (21) days before the date fixed for the referendum, and the last publication shall be made not more than seven (7) days before that date. If no newspaper is published in the school district, then the notice shall be published in a newspaper having a general circulation in the school district. The referendum shall be held, as far as is practicable, in the same manner as other referendums and elections are held in the county or municipality. At the referendum, all registered, qualified electors of the school district may vote. The ballots used at the referendum shall have printed thereon a brief statement of the amount and purpose of the increased tax levy and the words "FOR INCREASING THE MILLAGE LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER) MILLS." The voter shall vote by placing a cross (X) or checkmark (√) opposite his choice on the proposition.

If a majority of the registered, qualified electors of the school district who vote in the referendum vote in favor of the question, then the ad valorem tax effort in dollars requested by the school board shall be approved. However, if a majority of the registered, qualified electors who vote in the referendum vote against the question, the millage rate levied by the levying authority shall not exceed the millage then being levied pursuant to the school board's order requesting the ad valorem tax effort for the then currently existing fiscal year.

Nothing in this subsection shall be construed to require any school district that is levying more than fifty-five (55) mills pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage rate to fifty-five (55) mills or less. Further, nothing in this subsection shall be construed to require a referendum in a school district where the requested ad valorem tax effort in dollars requires a millage rate of greater than fifty-five (55) mills but the requested dollar amount does not require any increase in the then existing millage rate. Further, nothing in this subsection shall be construed to require a referendum in a school district where, because of a decrease in the assessed valuation of the district, a millage rate of greater than fifty-five (55) mills is necessary to generate funds equal to the dollar amount generated by the ad valorem tax effort for the currently existing fiscal year.

(b) Provided, however, that if a levying authority is levying in excess of fifty-five (55) mills on July 1, 1997, the levying authority may levy an additional amount not exceeding three (3) mills in the aggregate for the period beginning July 1, 1997, and ending June 30, 2003, subject to the limitation on increased receipts from ad valorem taxes prescribed in Sections 37-57-105 and 37-57-107.

(c) If the levying authority for any school district lawfully has decreased the millage levied for school district purposes, but subsequently determines that there is a need to increase the millage rate due to a disaster in which the Governor has declared a disaster emergency or the President of the United States has declared an emergency or major disaster, then the levying authority may increase the millage levied for school district purposes up to an amount that does not exceed the millage rate in any one (1) of the immediately preceding ten (10) fiscal years without any referendum that otherwise would be required under this subsection.

(3) If the millage rate necessary to generate funds equal to the dollar amount requested by the school board is equal to fifty-five (55) mills or less, but the dollar amount requested by the school board exceeds the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%), but not more than seven percent (7%) (as provided for under subsection (4) of this section), then the school board shall publish notice thereof at least five (5) days per week, unless the only newspaper published in the school district is published less than five (5) days per week, for at least three (3) consecutive weeks in a newspaper published in the school district. The notice shall be no less than one-fourth (¼) page in size, and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The notice may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The first publication shall be made not less than fifteen (15) days before the final adoption of the budget by the school board. If no newspaper is published in the school district, then the notice shall be published in a newspaper having a general circulation in the school district. If at any time before the adoption of the budget a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the registered, qualified electors of the school district is filed with the

school board requesting that a referendum be called on the question of exceeding the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%), then the school board shall adopt, not later than the next regular meeting, a resolution calling a referendum to be held within the school district upon the question. The referendum shall be called and held, and notice thereof shall be given, in the same manner provided for in subsection (2) of this section. The ballot shall contain the language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a majority of the registered, qualified electors of the school district who vote in the referendum vote in favor of the question, then the increase requested by the school board shall be approved. For the purposes of this subsection, the revenue sources excluded from the increase limitation under Section 37-57-107 also shall be excluded from the limitation described in this subsection in the same manner as they are excluded under Section 37-57-107. Provided, however, that any increases requested by the school board as a result of the required local contribution to the Mississippi Adequate Education Program, as certified to the local school district by the State Board of Education under Section 37-151-7(2), Mississippi Code of 1972, shall not be subject to the four percent (4%) and/or seven percent (7%) tax increase limitations provided in this section.

(4) If the millage rate necessary to generate funds equal to the dollar amount requested by the school board is equal to fifty-five (55) mills or less, but the dollar amount requested by the school board exceeds the seven percent (7%) increase limitation provided for in Section 37-57-107, the school board may exceed the seven percent (7%) increase limitation only after the school board has determined the need for additional revenues and three-fifths (3/5) of the registered, qualified electors voting in a referendum called by the levying authority have voted in favor of the increase. The notice and manner of holding the referendum shall be as prescribed in subsection (2) of this section for a referendum on the question of increasing the millage rate in school districts levying more than fifty-five (55) mills for school district purposes.

(5) The aggregate receipts from ad valorem taxes levied for school district purposes pursuant to Sections 37-57-1 and 37-57-105, excluding collection fees, additional revenue from the ad valorem tax on any newly constructed properties or any existing properties added to the tax rolls or any properties previously exempt which were not assessed in the next preceding year, and amounts received by school districts from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35, shall be subject to the increase limitation under this section and Section 37-57-107.

(6) The school board shall pay to the levying authority all costs that are incurred by the levying authority in the calling and holding of any election under this section.

(7) The provisions of this section shall not be construed to affect in any manner the authority of school boards to levy millage for the following purposes:

(a) The issuance of bonds, notes and certificates of indebtedness, as authorized in Sections 37-59-1 through 37-59-45 and Sections 37-59-101 through 37-59-115;

(b) The lease of property for school purposes, as authorized under the Emergency School Leasing Authority Act of 1986 (Sections 37-7-351 through 37-7-359);

(c) The lease or lease-purchase of school buildings, as authorized under Section 37-7-301;

(d) The issuance of promissory notes in the event of a shortfall of ad valorem taxes and/or revenue from local sources, as authorized under Section 27-39-333; and

(e) The construction of school buildings outside the school district, as authorized under Section 37-7-401.

Any millage levied for the purposes specified in this subsection shall be excluded from the millage limitations established under this section.

SOURCES: Laws, 1997, ch. 612, § 21; Laws, 2002, ch. 551, § 8, eff from and after July 1, 2002 (date bill became law without the Governor's signature).

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Cross References — Mississippi Adequate Education Program, see §§ 37-151-1 et seq.

ATTORNEY GENERAL OPINIONS

If, after considering the exclusions and exceptions contained in the statute, the required millage rate exceeds the levy for the current year and also exceeds fifty-five mills, a referendum must be called even if the total tax effort increase does not exceed seven percent. Clearman, July 14, 2000, A.G. Op. #2000-0357.

Pursuant to this section, a school board shall request an ad valorem tax effort in a dollar amount for the support of the school district, not a millage rate; it is the levying authority that sets the millage rate. Perkins, Sept. 11, 2002, A.G. Op. #02-0536.

§ 37-57-105. Authorization and procedure for levy.

(1) In addition to the taxes levied under Section 37-57-1, the levying authority for the school district, as defined in Section 37-57-1, upon receipt of a certified copy of an order adopted by the school board of the school district requesting an ad valorem tax effort in dollars for the support of the school district, shall, at the same time and in the same manner as other ad valorem taxes are levied, levy an annual ad valorem tax in the amount fixed in such order upon all of the taxable property of such school district, which shall not be less than the millage rate certified by the State Board of Education as the uniform minimum school district ad valorem tax levy for the support of the adequate education program in such school district under Section 37-57-1. Provided, however, that any school district levying less than the uniform minimum school district ad valorem tax levy on July 1, 1997, shall only be

required to increase its local district maintenance levy in four (4) mill annual increments in order to attain such millage requirements. In making such levy, the levying authority shall levy an additional amount sufficient to cover anticipated delinquencies and costs of collection so that the net amount of money to be produced by such levy shall be equal to the amount which is requested by said school board. The proceeds of such tax levy, excluding levies for the payment of the principal of and interest on school bonds or notes and excluding levies for costs of collection, shall be placed in the school depository to the credit of the school district and shall be expended in the manner provided by law for the purpose of supplementing teachers' salaries, extending school terms, purchasing furniture, supplies and materials, and for all other lawful operating and incidental expenses of such school district, funds for which are not provided by adequate education program fund allotments.

The monies authorized to be received by school districts from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35 shall be included as ad valorem tax receipts. The levying authority for the school district, as defined in Section 37-57-1, shall reduce the ad valorem tax levy for such school district in an amount equal to the amount distributed to such school district from the School Ad Valorem Tax Reduction Fund each calendar year pursuant to said Section 37-61-35. Such reduction shall not be less than the millage rate necessary to generate a reduction in ad valorem tax receipts equal to the funds distributed to such school district from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35. Such reduction shall not be deemed to be a reduction in the aggregate amount of support from ad valorem taxation for purposes of Section 37-19-11 [Repealed]. The millage levy certified by the State Board of Education as the uniform minimum ad valorem tax levy or the millage levy that would generate funds in an amount equal to a school district's district entitlement, as defined in Section 37-22-1(2)(e) [Repealed], shall be subject to the provisions of this paragraph.

In any county where there is located a nuclear generating power plant on which a tax is assessed under Section 27-35-309(3), such required levy and revenue produced thereby may be reduced by the levying authority in an amount in proportion to a reduction in the base revenue of any such county from the previous year. Such reduction shall be allowed only if the reduction in base revenue equals or exceeds five percent (5%). "Base revenue" shall mean the revenue received by the county from the ad valorem tax levy plus the revenue received by the county from the tax assessed under Section 27-35-309(3) and authorized to be used for any purposes for which a county is authorized by law to levy an ad valorem tax. For purposes of determining if the reduction equals or exceeds five percent (5%), a levy of millage equal to the prior year's millage shall be hypothetically applied to the current year's ad valorem tax base to determine the amount of revenue to be generated from the ad valorem tax levy. For the purposes of this section and Section 37-57-107, the portion of the base revenue used for the support of any school district shall be deemed to be the aggregate receipts from ad valorem taxes for the support of any school district. This paragraph shall apply to taxes levied for the 1987 fiscal year and for each fiscal year thereafter. If the Mississippi Supreme Court or another court finally adjudicates that the tax levied under Section 27-35-309(3) is unconstitutional, then this paragraph shall stand repealed.

(2) When the tax is levied upon the territory of any school district located in two (2) or more counties, the order of the school board requesting the levying of such tax shall be certified to the levying authority of each of the counties involved, and each of the levying authorities shall levy the tax in the manner specified herein. The taxes so levied shall be collected by the tax collector of the levying authority involved and remitted by the tax collector to the school depository of the home county to the credit of the school district involved as provided above, except that taxes for collection fees may be retained by the levying authority for deposit into its general fund.

(3) The aggregate receipts from ad valorem taxes levied for school district purposes, excluding collection fees, pursuant to this section and Section 37-57-1 shall be subject to the increased limitation under Section 37-57-107; however, if the ad valorem tax effort in dollars requested by the school district for the fiscal year exceeds the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%) but not more than seven percent (7%), then the school board shall publish notice thereof once each week for at least three (3) consecutive weeks in a newspaper having general circulation in the school district involved, with the first publication thereof to be made not less than fifteen (15) days prior to the final adoption of the budget by the school board. If at any time prior to said adoption a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the school district involved shall be filed with the school board requesting that an election be called on the question of exceeding the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%) but not more than seven percent (7%), then the school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon such question. The election shall be called and held, and notice thereof shall be given, in the same manner for elections upon the questions of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. The ballot shall contain the language "For the School Tax Increase Over Four Percent (4%)" and "Against the School Tax Increase Over Four Percent (4%)." If a majority of the qualified electors of the school district who voted in such election shall vote in favor of the question, then the stated increase requested by the school board shall be approved. For the purposes of this paragraph, the revenue sources excluded from the increased limitation under Section 37-57-107 shall also be excluded from the limitation described herein in the same manner as they are excluded under Section 37-57-107.

SOURCES: Laws, 1983, ch. 471, § 23; Laws, 1986, ch. 492, § 163; Laws, 1987, ch. 307, § 23; Laws, 1987, ch. 507, § 12; Laws, 1987, ch. 520, § 2; Laws, 1989, ch. 510, § 5; Laws, 1990, ch. 495, § 2; Laws, 1992, ch. 419, § 27; Laws, 1994, ch. 581, § 54; Laws, 1997, ch. 612, § 23; Laws, 2002, ch. 551, § 4, eff from and after July 1, 2002 (date bill became law without the Governor's signature).

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Section 37-22-1, referred to in the last sentence of the second paragraph of (1), was repealed by Laws of 1997, ch. 612, § 30, eff from and after July 1, 2002.

Cross References — Homestead exemptions, see § 27-33-3.

Authorization to expend funds to cover cost and expenses of litigation relating to and implementation of single member school board trustee election districts, see § 37-7-208.

Special tax levy for purpose of annual lease payments under the Emergency School Leasing Authority Act of 1986, see § 37-7-359.

Limitation on increases of taxes levied for school district purposes, disposition of excess revenue therefrom, and ceiling on ad valorem taxes for support of municipal separate and special municipal districts, see § 37-57-107.

ATTORNEY GENERAL OPINIONS

In reference to levy by a board of supervisors for support of special municipal separate school districts, a mandate that the levying authority levy an additional amount sufficient to cover anticipated delinquencies and costs of collection means that the levying authority is to levy such additional millage as is necessary to generate sufficient funds to cover such costs and delinquencies. Crigler, May 13, 1992, A.G. Op. #92-0314.

Statute provides by express exception that Equity Funding millage may not be reduced by application of amount received from School Ad Valorem Tax Reduction Fund and if district is levying only minimum required by Equity Funding and does not have any other millage against which to apply this money and thus reduce taxes immediately, taxpayer nevertheless would receive future benefit as new or increasing expenses of school district would be offset by School Ad Valorem Tax Reduction Fund. Harvey, July 16, 1993, A.G. Op. #93-0476.

A school district may not lawfully reserve/segregate ad valorem tax receipts (attributed to a specific tax payer) in a permanent trust fund. Pate, January 15, 1999, A.G. Op. #98-0775.

In accordance with Section 57-3-33, projects and property financed under the provisions of said chapter are exempt from all taxation except taxes levied pursuant to Section 27-65-21, Sections 37-57-105 and 37-59-23, and taxes levied pursuant to Section 27-39-329 when said tax is levied expressly "for school district purposes"; a tax levied under Section 37-29-141 for the support of junior (community) college districts is not for "school district purposes." Beech, Mar. 17, 2006, A.G. Op. 06-0009.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 58 et seq.

22 Am. Jur. Pl & Pr Forms (Rev), Schools, Forms 31 et seq. (taxation by school districts; fees and bonds).

CJS. 78A C.J.S., Schools and School Districts §§ 789 et seq.

§ 37-57-107. Limitation on aggregate receipts from taxes for school purposes; disposition of excess receipts.

(1) Beginning with the tax levy for the 1997 fiscal year and for each fiscal year thereafter, the aggregate receipts from taxes levied for school district purposes pursuant to Sections 37-57-105 and 37-57-1 shall not exceed the

aggregate receipts from those sources during any one (1) of the immediately preceding three (3) fiscal years, as determined by the school board, plus an increase not to exceed seven percent (7%). For the purpose of this limitation, the term "aggregate receipts" when used in connection with the amount of funds generated in a preceding fiscal year shall not include excess receipts required by law to be deposited into a special account. However, the term "aggregate receipts" includes any receipts required by law to be paid to a charter school. The additional revenue from the ad valorem tax on any newly constructed properties or any existing properties added to the tax rolls or any properties previously exempt which were not assessed in the next preceding year may be excluded from the seven percent (7%) increase limitation set forth herein. Taxes levied for payment of principal of and interest on general obligation school bonds issued heretofore or hereafter shall be excluded from the seven percent (7%) increase limitation set forth herein. Any additional millage levied to fund any new program mandated by the Legislature shall be excluded from the limitation for the first year of the levy and included within such limitation in any year thereafter. For the purposes of this section, the term "new program" shall include, but shall not be limited to, (a) the Early Childhood Education Program required to commence with the 1986-1987 school year as provided by Section 37-21-7 and any additional millage levied and the revenue generated therefrom, which is excluded from the limitation for the first year of the levy, to support the mandated Early Childhood Education Program shall be specified on the minutes of the school board and of the governing body making such tax levy; (b) any additional millage levied and the revenue generated therefrom which shall be excluded from the limitation for the first year of the levy, for the purpose of generating additional local contribution funds required for the adequate education program for the 2003 fiscal year and for each fiscal year thereafter under Section 37-151-7(2); and (c) any additional millage levied and the revenue generated therefrom which shall be excluded from the limitation for the first year of the levy, for the purpose of support and maintenance of any agricultural high school which has been transferred to the control, operation and maintenance of the school board by the board of trustees of the community college district under provisions of Section 37-29-272.

(2) The seven percent (7%) increase limitation prescribed in this section may be increased an additional amount only when the school board has determined the need for additional revenues and has held an election on the question of raising the limitation prescribed in this section. The limitation may be increased only if three-fifths (3/5) of those voting in the election shall vote for the proposed increase. The resolution, notice and manner of holding the election shall be as prescribed by law for the holding of elections for the issuance of bonds by the respective school boards. Revenues collected for the fiscal year in excess of the seven percent (7%) increase limitation pursuant to an election shall be included in the tax base for the purpose of determining aggregate receipts for which the seven percent (7%) increase limitation applies for subsequent fiscal years.

(3) Except as otherwise provided for excess revenues generated pursuant to an election, if revenues collected as the result of the taxes levied for the fiscal year pursuant to this section and Section 37-57-1 exceed the increase limitation, then it shall be the mandatory duty of the school board of the school district to deposit such excess receipts over and above the increase limitation into a special account and credit it to the fund for which the levy was made. It will be the further duty of such board to hold said funds and invest the same as authorized by law. Such excess funds shall be calculated in the budgets for the school districts for the purpose for which such levies were made, for the succeeding fiscal year. Taxes imposed for the succeeding year shall be reduced by the amount of excess funds available. Under no circumstances shall such excess funds be expended during the fiscal year in which such excess funds are collected.

(4) For the purposes of determining ad valorem tax receipts for a preceding fiscal year under this section, the term "fiscal year" means the fiscal year beginning October 1 and ending September 30.

(5) Beginning with the 2013-2014 school year, each school district in which a charter school is located shall pay to the charter school an amount for each student enrolled in the charter school equal to the ad valorem taxes levied per pupil for the support of the school district in which the charter school is located. The pro rata ad valorem taxes to be transferred to the charter school must include all levies for the support of the school district under Sections 37-57-1 (local contribution to the adequate education program) and 37-57-105 (school district operational levy) but may not include any taxes levied for the retirement of school district bonded indebtedness or short-term notes or any taxes levied for the support of vocational-technical education programs. Payments made pursuant to this subsection by a school district to a charter school must be made before the expiration of three (3) business days after the funds are distributed to the school district.

SOURCES: Laws, 1983, ch. 471, § 24; Laws, 1986, ch. 492, § 164; Laws, 1986, ch. 500, § 18; Laws, 1987, ch. 507, § 13; Laws, 1989, ch. 510, § 6; Laws, 1990, ch. 495, § 3; Laws, 1992, ch. 419, § 28; Laws, 1994, ch. 581, § 52; Laws, 1997, ch. 612, § 24; Laws, 2002, ch. 551, § 5; Laws, 2013, ch. 497, § 91, eff from and after July 1, 2013.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Amendment Notes — The 2013 amendment inserted subsection (1) through (4) designations and the third sentence in (1); and added (5).

Cross References — Applicability of this section to distribution of Tennessee Valley Authority in lieu payments to school districts and for construction of roads, see § 27-39-303.

Inclusion, as proceeds of ad valorem taxes, of proceeds of promissory notes issued because of shortfall in ad valorem taxes, see § 27-39-333.

Local funds expended in implementing §§ 37-3-55 through 37-3-71 not exempt from tax increase limitation provision of this section, see § 37-3-77.

Authorization to expend funds to cover cost and expenses of litigation relating to and implementation of single member school board trustee election districts, see § 37-7-208.

Special tax levy for purpose of annual lease payments under the Emergency School Leasing Authority Act of 1986, see § 37-7-359.

Implementation and funding of gifted education programs, see § 37-23-179.

Exclusion of tax receipts, used by junior colleges to repay loans, from growth limitations on ad valorem taxes, see § 37-29-103.

Portion of the base revenue used for support of any school district being deemed to be the aggregate receipts from ad valorem taxes for the support of any school district, see § 37-57-105.

ATTORNEY GENERAL OPINIONS

Board of supervisors as appropriate levying authority is mandated to levy taxes called for by county school board in its budget; 3 mill levy for purchase of school buses is not subject to the limitation found at 37-57-107, as one specific purpose for which additional millage over and above statutory limit is allowed is purchase of buses. Parsons, Sept. 9, 1992, A.G. Op. #92-0664.

The words "any newly constructed properties or any existing properties added to the tax rolls or any properties previously exempt which were not assessed in the next preceding year" include both real and personal property. Watkins, June 22, 1999, A.G. Op. #99-0324.

Any amount of a delinquency in 2001 taxes received in tax year 2004 which exceeds the increase limitation described in this section must be deposited into a special account and calculated into the budget for the succeeding fiscal year. Lowery, Aug. 13, 2004, A.G. Op. 04-0311.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 58 et seq.

CJS. 78A C.J.S., Schools and School Districts §§ 789 et seq.

§ 37-57-108. Issuance of promissory notes by school districts in event of revenue shortfall.

In the event that the amount of revenue collected or estimated to be collected from local sources, on behalf of a school district during a fiscal year, is less than the amount provided for in the duly adopted budget of said school district for the fiscal year, then the school district may issue promissory notes in an amount and in the manner set forth in Section 27-39-333, not to exceed the estimated shortfall of revenue from local sources, but in no event to exceed twenty-five percent (25%) of its budget anticipated to be funded from the sources of the shortfall for the fiscal year. A school district issuing notes under the provisions of this section shall not be required to publish notice of its intention to do so or to secure the consent of the qualified electors or the tax levying authority of such school district.

SOURCES: Laws, 1993, ch. 562, § 5; Laws, 2005, 5th Ex Sess, ch. 23, § 1; Laws, 2006, ch. 308, § 1; Laws, 2008, ch. 556, § 2, eff from and after July 1, 2008.

Editor's Note — Section 1 of Chapter 23, Laws of 2005, 5th Extraordinary Session, provided for two versions of this section; the first version was effective from and after

October 24, 2005, through June 30, 2007, and the second version was effective from and after July 1, 2007.

Section 2 of Chapter 556, Laws of 2008, provided for two versions of this section; the first version was effective from and after July 1, 2008, through June 30, 2010, and the second version was effective from and after July 1, 2010.

ATTORNEY GENERAL OPINIONS

School districts are limited to three years to repay indebtedness under statute, just as under Section 27-39-333 and as is case with proceeds from Section 27-39-333 note, proceeds of notes are included as proceeds of ad valorem taxes for purposes of Section 37-57-107 limitation. Dyson, August 18, 1993, A.G. Op. #93-0392.

Before a city public school district can issue (a) promissory note(s) and provide notice to the city to levy an ad valorem tax sufficient to repay the indebtedness, the district must demonstrate that there was a shortfall for the fiscal year and that the shortfall would prevent the district from meeting its financial obligations for that year. Wallace, Dec. 10, 1999, A.G. Op. #99-0652.

A school district may submit a budget which reflects the full amount of local tax revenues deemed necessary (within statutory limitations on increases) for operational purposes, but which deducts up to the amount available to be drawn by the district on a CD loan for that fiscal year from the final ad valorem tax effort for support the district requests from the levying authority, and then make a CD loan draw for the difference between the amount budgeted and the amount collected from the local ad valorem tax levy for school operations. Bounds, Sept. 29, 2006, A.G. Op. 06-0461.

TAX ON FAMILY DWELLING UNITS

SEC.
37-57-111. Definitions.
37-57-113. Imposition of excise or transfer tax upon new family units.
37-57-115. Levy of ad valorem tax upon mobile homes and house trailers.
37-57-117. Collection and utilization of funds.
37-57-119. Enforcement.

§ 37-57-111. Definitions.

For the purposes of Sections 37-57-111 through 37-57-119, the following words shall have the meanings ascribed to them in this section:

(a) "Family unit" means a new family dwelling, mobile home, apartment, condominium, duplex, townhouse or structure, used for family residency.

(b) "Compacted area" means any countywide school system with inadequate building facilities to meet the educational needs of school children, causing crowded conditions, which will continue in the public school facilities.

SOURCES: Codes, 1942, § 6520-01; Laws, 1972, ch. 504, § 1, eff from and after passage (approved May 19, 1972).

§ 37-57-113. Imposition of excise or transfer tax upon new family units.

The board of supervisors of any class one county which has a population in the 1970 decennial census of not less than thirty-five thousand (35,000) and not more than fifty thousand (50,000) and having a total assessed valuation in 1971 of not less than forty million dollars ($40,000,000.00) and not more than fifty million dollars ($50,000,000.00) may impose an excise and/or transfer tax upon the sale or construction of all new family units as defined in Section 37-57-111 for capital improvement of public schools as provided by law for countywide public school districts. Said taxation shall not exceed three percent (3%) of the first twenty thousand dollars ($20,000.00) and one-half of one percent (½ of 1%) of all over twenty thousand dollars ($20,000.00) of the total sale or contract price of the family unit; however, said taxation shall not exceed three percent (3%) of the first ten thousand dollars ($10,000.00) and one-half of one percent (½ of 1%) of all over ten thousand dollars ($10,000.00) of the total sale or contract price of apartments, condominiums, duplexes or townhouses.

The tax hereby authorized, if imposed by order of the board of supervisors of the county by order duly spread upon the minutes of said board, shall apply only to the initial sale or construction of new family units not heretofore occupied or used for residence purposes, and shall be an indebtedness of the owner of the family unit.

Said tax shall not apply to such family units purchased or constructed by or for any religious, charitable, educational or nonprofit corporation or institution, nor shall it apply to demonstration of model homes.

SOURCES: Codes, 1942, § 6520-02; Laws, 1972, ch. 504, § 2, eff from and after passage (approved May 19, 1972).

JUDICIAL DECISIONS

1. In general.
2. Evidence.

1. In general.

Before taxing authority may recover judgment under § 37-57-113 against taxpayer, all factual prerequisites to existence of obligation on part of taxpayer to pay tax must be proved by taxing authority by preponderance of evidence. W.H. Hopper & Assocs. v. DeSoto County, 475 So. 2d 1149 (Miss. 1985).

2. Evidence.

Any inadequacy in tax authority's proof of amount of taxes owed by taxpayer is obviated when, during taxpayer's pro se examination of opposing counsel as adverse witness, taxpayer elicits testimony that computation of taxes owed has been checked in detail and that, in prior litigation, taxpayer never questioned amount of taxes owed as set forth in letter from tax authority to taxpayer. W.H. Hopper & Assocs. v. DeSoto County, 475 So. 2d 1149 (Miss. 1985).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 58 et seq.

CJS. 78A C.J.S., Schools and School Districts §§ 789 et seq.

§ 37-57-115. Levy of ad valorem tax upon mobile homes and house trailers.

In addition to mobile home ad valorem taxes assessed and collected under authority of Chapter 53 of Title 27, Mississippi Code of 1972, the boards of supervisors are hereby authorized and empowered to levy a ten dollar ($10.00) ad valorem tax upon each mobile home or house trailer used as a family dwelling not heretofore occupied or used for residential purposes within the county as defined in Section 27-53-1, Mississippi Code of 1972, to be collected by the county tax assessor-collector annually and deposited into a county trust fund entitled "county school building and repair fund" and expended by the county board of education for capital improvements and equipment only in such compacted areas.

SOURCES: Codes, 1942, § 6520-03; Laws, 1972, ch. 504, § 3, eff from and after passage (approved May 19, 1972).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools §§ 58 et seq.

CJS. 78A C.J.S., Schools and School Districts §§ 789 et seq.

§ 37-57-117. Collection and utilization of funds.

All funds derived from such taxation under Sections 37-57-111 through 37-57-119 shall be collected by the tax assessors and/or tax collectors of the county prior to or simultaneous with the sale of the new family unit and shall be deposited into a county trust fund entitled "county school building and repair fund" to be utilized by the county board of education for capital improvements only in compacted areas. However, the board of supervisors of such county shall be authorized to utilize the proceeds of taxation toward paying the principal and interest on full faith and credit bonds of the county which may be issued to provide immediate funds for acquiring sites and constructing public school facilities.

All funds levied and collected under authority of Sections 37-57-111 through 37-57-119 shall be expended for the purposes set forth in said sections and in the manner now provided by law for making such expenditures in counties having a countywide school district.

SOURCES: Codes, 1942, § 6520-04; Laws, 1972, ch. 504, § 4, eff from and after passage (approved May 19, 1972).

RESEARCH REFERENCES

CJS. 78A C.J.S., Schools and School Districts §§ 848 et seq.

§ 37-57-119. Enforcement.

The board of supervisors of any county which imposes the tax authorized by Sections 37-57-111 through 37-57-119 may adopt rules and regulations governing the time and method of payment of the taxes, and may provide by rule or regulation for the withholding of any final or other inspection of the property otherwise required by local building or zoning ordinance until such tax is paid or satisfactory security given for such payment, and may provide for the payment of interest and penalties up to fifty percent (50%) for late payment.

SOURCES: Codes, 1942, § 6520-05; Laws, 1972, ch. 504, § 5, eff from and after passage (approved May 19, 1972).

RESEARCH REFERENCES

CJS. 78A C.J.S., Schools and School Districts §§ 856-865.

MISCELLANEOUS

Sec.	
37-57-121.	Repealed.
37-57-123.	Repealed.
37-57-125 and 37-57-127.	Repealed.
37-57-129.	Repealed.
37-57-131.	Real property incorporated in school district prior to June 1 of fiscal year liable for taxes levied during year.
37-57-133.	Changes in assessment roll to incorporate property.

§ 37-57-121. Repealed.

Repealed by Laws, 1984, ch. 379, § 2, eff from and after April 18, 1984.

[Codes, 1942, § 6518-08; Laws, 1954, ch. 261, § 8; Laws, 1956, ch. 296, § 15.]

Editor's Note — Former § 37-57-121 stated applications of and exemptions from homestead exemption law under various tax levies.

§ 37-57-123. Repealed.

Repealed by Laws, 1986, ch. 492, § 165, eff from and after July 1, 1987.

[Codes, 1942, § 6518-09; Laws, 1954, ch. 261, § 9; Laws, 1956, ch. 296, § 16; Laws, 1983, ch. 471, § 25.]

Editor's Note — Former § 37-57-123 provided for assessment and collection of additional taxes of school districts under former §§ 37-57-21 through 37-57-31, 37-57-35, and 37-57-51.

§§ 37-57-125 and 37-57-127. Repealed.

Repealed by Laws, 1986, ch. 492, § 189, eff from and after July 1, 1987.

§ 37-57-125. [Codes, 1942, § 6518-11; Laws, 1954, ch. 261, § 11.]

§ 37-57-127. [Codes, 1942, § 6518-12; Laws, 1954, ch. 261, § 12.]

Editor's Note — Former § 37-57-125 required that funds of county school system be paid out on pay certificates.

Former § 37-57-127 required that funds of municipal separate school district be paid out on warrants.

§ 37-57-129. Repealed.

Repealed by Laws, 1983, ch. 471, § 28, eff from and after July 1, 1983.

[Codes, 1942, § 6518-13; Laws, 1954, ch. 261, § 13; Laws, 1962, ch. 360, § 2.]

Editor's Note — Former § 37-57-129 provided that the maximum limit on local school tax levies was twenty-five mills except as provided in former § 37-57-51.

§ 37-57-131. Real property incorporated in school district prior to June 1 of fiscal year liable for taxes levied during year.

All taxable real property which has been or shall be incorporated in, annexed to or otherwise made a part of any school district, and any taxable personal property which is located or situated in any school district prior to June 1 of any fiscal year, shall be liable for all ad valorem taxes levied or imposed for such school district during such year to the same extent and in like manner as though such real property had been incorporated in, annexed to or otherwise made a part of such school district prior to January 1 of such year, and in like manner as though such personal property had been located or situated within such school district prior to January 1 of such year; such property shall be relieved from liability for taxes levied during such year for the support and maintenance of the school district of which it was formerly a part, and such personal property shall be relieved from liability for taxes levied during such year for the support and maintenance of the school district within which it was formerly located or situated. Nothing herein shall be construed to relieve such real or personal property from assessment and liability for the payment of the outstanding bonds or other indebtedness of the district of which such property was formerly a part, or of the district in which such personal property was situated or located as the case may be, and such question shall be governed and controlled by other statutes applicable thereto, including, but not being limited to, Section 37-7-109.

SOURCES: Codes, 1942, § 6519-01; Laws, 1954, Ex Sess, ch. 30, § 1; Laws, 1956, ch. 270, § 1; Laws, 1964, ch. 404; Laws, 1986, ch. 492, § 166, eff from and after July 1, 1987.

§ 37-57-133. Changes in assessment roll to incorporate property.

In the event taxable real property has been or is incorporated in, annexed to, or otherwise made a part of a school district, or in the event taxable personal property is or becomes situated or located within a school district, as the case may be, prior to October 1 of any year but after the approval of the assessment roll of the county or school district for such year, then the board of supervisors of the county or the governing authority of the municipality, as the case may be, shall have the power and authority to make such changes in the assessment roll as shall be necessary to cause such real or personal property to be assessed properly for the ad valorem taxes levied during said year for which such property shall be liable under the terms of Section 37-57-131.

SOURCES: Codes, 1942, § 6519-02; Laws, 1954, Ex Sess, ch. 30, § 2; Laws, 1956, ch. 270, § 2; Laws, 1986, ch. 492, § 167, eff from and after July 1, 1987.

CHAPTER 59

School Bonds and Obligations

Article 1. Authority to Issue Bonds, Notes and Certificates of Indebtedness 37-59-1
Article 3. Additional Authority to Issue Notes and Certificates of Indebtedness 37-59-101
Article 5. Issuance of Notes and Certificates on Indebtedness in Certain Municipal Separate School Districts. [Repealed]
Article 7. Reduced or Interest-Free Debt 37-59-301

ARTICLE 1.

AUTHORITY TO ISSUE BONDS, NOTES AND CERTIFICATES OF INDEBTEDNESS.

SEC.
37-59-1. "Bonds" defined.
37-59-3. Purposes for which bonds may be issued.
37-59-5. General limitation of indebtedness.
37-59-7. Issuance of bonds in amount exceeding limitation of Section 37-59-5.
37-59-9. Bonds and notes excluded for purposes of computing limitations of indebtedness.
37-59-11. Adoption of bond issue resolution; requirement of election on issuance of bonds.
37-59-13. Notice of election.
37-59-15. Conduct of election.
37-59-17. Determination of results of election; time period for issuance of bonds.
37-59-19. Procedure for issuance of bonds upon petition of majority of qualified electors of school district generally.
37-59-21. Procedure for issuance of bonds upon petition where district lies in two or more counties.
37-59-22. Procedure for issuance of bonds upon election where district lies in two or more counties; levy of special tax.
37-59-23. Levy of special tax to pay principal and interest on bonds.
37-59-24. Instructions to deposit tax receipts directly with trustee or paying agent.
37-59-25. Form of bonds; supplemental powers conferred in issuance of bonds.
37-59-27. Maturities of bonds; interest rates; execution of bonds; maintenance of register of bond issues.
37-59-29. Disposition of proceeds of bonds; liability for diversion of funds.
37-59-31. Election on withdrawing or revoking authority to issue bonds or on amending purpose for which bonds may be issued.
37-59-33. Transfer of balance of proceeds of bond issue.
37-59-35. Use of bond and interest funds to buy outstanding bonds.
37-59-37. Borrowing of money for current expenses in anticipation of school district taxes.
37-59-39. Repealed.
37-59-41. Borrowing of money in anticipation of taxes for benefit of agricultural high schools.
37-59-43. Investment of surplus funds.
37-59-45. Article as sole authority for incurring of indebtedness.

§ 37-59-1. "Bonds" defined.

The word "bonds" as used in this article shall be deemed to mean and include bonds, notes, or certificates of indebtedness.

SOURCES: Codes, 1942, § 6532-01; Laws, 1950, ch. 231, § 1; Laws, 1955, Ex Sess, ch. 61.

Cross References — Application of this article to bonds issued by school boards, see § 37-41-95.

Provisions of chapter do not affect power of school districts to raise funds, see § 37-47-65.

Authority of school boards to levy millage for the issuance of bonds, notes and certificates of indebtedness authorized in this article not affected by the provisions of § 37-57-104, see § 37-57-104.

Pledge of monies from Education Enhancement Fund to pay debt service on debt issued under this article, see § 37-61-33.

ATTORNEY GENERAL OPINIONS

Pursuant to Section 37-59-1 et. seq., in an election on the issuance of bonds for a county school district, wherein also lies a line consolidated school district, the statutory scheme for the issuance of bonds clearly contemplates that only the residents of the county school district would vote on the matter and only the taxes of the residents of the county school district would be affected in the event of passage. Staten, September 20, 1996, A.G. Op. #96-0637.

RESEARCH REFERENCES

Am Jur. 22 Am. Jur. Pl & Pr Forms (Rev), Schools, Forms 31 et seq. (taxation by school districts; fees and bonds).

Practice References. Mississippi School Laws Annotated (Michie).

Federal Education Laws and Regulations (Michie).

Vacca and Bosher, Law and Education: Contemporary Issues and Court Decisions (Matthew Bender).

Rapp, Education Law (Matthew Bender).

§ 37-59-3. Purposes for which bonds may be issued.

The school board of any school district is authorized to issue negotiable bonds of such school district to raise money for the following purposes:

(a) Purchasing, erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including gymnasiums, auditoriums, lunch rooms, vocational training buildings, libraries, teachers' homes, school barns, transportation vehicles and garages for transportation vehicles, and purchasing land therefor.

(b) Establishing and equipping school athletic fields and necessary facilities connected therewith, and purchasing land therefor.

(c) Providing necessary water, light, heating, air conditioning and sewerage facilities for school buildings, and purchasing land therefor.

(d) Paying part of the costs to be incurred in erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities which are owned and operated by state-supported institutions of higher education as a demonstration or practice school attended by pupils, grades, or one or more, or parts of grades from the educable children of such school district pursuant to a contract or agreement between said institution and said school district.

The authority to issue the bonds hereinabove set forth shall include the authority for the school board of such school district to spend the money for the purposes for which said money is raised.

SOURCES: Codes, 1942, § 6532-01; Laws, 1950, ch. 231, § 1; Laws, 1955, Ex Sess, ch. 61; Laws, 1986, ch. 492, § 168; Laws, 1987, ch. 307, § 24, eff from and after passage (approved March 3, 1987).

Cross References — Issuance of county bonds generally, see §§ 19-9-1 et seq.

Issuance of municipal bonds generally, see §§ 21-33-301 et seq.

Advertising sales of bonds generally, see § 31-19-25.

Issuance of bonds by municipalities and municipal separate school districts for establishment and maintenance of agricultural high schools, see § 37-27-63.

Issuance of bonds by counties for establishment and development of agricultural high schools, see § 37-27-65.

Issuance of bonds by municipalities and municipal separate school districts for establishment and maintenance of junior colleges, see § 37-29-265.

Issuance by state bond commission of state school bonds, see § 37-47-33.

Additional powers conferred in connection with issuance of bonds, see § 37-59-25.

Pledge of monies from Education Enhancement Fund to pay debt service on debt issued under this section, see § 37-61-33.

JUDICIAL DECISIONS

1. In general.
2.-10. [Reserved for future use.]
11. Under former law.

1. In general.

Where plaintiff parent sued defendant school district in state court alleging her child was sexually assaulted at school and obtained a judgment under the Mississippi Tort Claims Act, her later claims in federal court were properly held as barred due to res judicata; while school districts' sources of funding under Miss. Code Ann. §§ 37-45-21, 37-47-1 et seq., 37-57-1, 37-59-3, and 37-151-7 were equally divided between local school districts and the state under Miss. Code Ann. §§ 11-46-7, 11-46-16(2), and 11-46-17(2), any judgment against the school district would be paid through the Tort Claims Fund and excess liability insurance, and thus, the school district was not considered an arm of the state entitled to Eleventh Amendment immunity. Black v. N. Panola Sch. Dist., 461 F.3d 584 (5th Cir. 2006).

On appeal to the circuit court from an order of the board of supervisors of Neshoba County directing issuance of bonds in the amount of $40,000 for the benefit of a high school, the circuit court had authority to hear and determine the matter only on the case as presented by the bill of exceptions as an appellate court, and hence the court was correct in refusing to permit the introduction of evidence on the hearing of the cause in the circuit court. East Neshoba Vocational High Sch. Bonds v. Board of Supvrs., 213 Miss. 146, 56 So. 2d 394 (1952).

A resolution of the school trustees requesting the board of supervisors to call an election for school bond issue which recites the necessary preliminary facts complied with the statute despite the objection that the order recited but did not adjudicate that the district is the legally existing district. Tedder v. Board of Supvrs., 214 Miss. 717, 59 So. 2d 329 (1952).

2.-10. [Reserved for future use.]

11. Under former law.

Under Code 1942, § 6370, gymnasium is school building and bonds may be issued for erection or repair of gymnasium, improvement of water system and repairing and improving school buildings. In re Savannah Special Consol. Sch. Dist., 208 Miss. 460, 44 So. 2d 545 (1950).

Code 1942, §§ 4341, 4342, and 6370, dealing with the same subject-matter, must be interpreted to harmonize with each other, to stand with as full effect as possible consistently with related sections, and to fit into the dominant policy of entire legislation on subject. Ashcraft v. Board of Supvrs., 204 Miss. 65, 36 So. 2d 820 (1948).

Code 1942, §§ 4342 and 6370 providing for the issuance of bonds for consolidated school districts are written into and become a part of Code 1942, § 4341, specifically providing for creation of specified area which shall be a unit for the issuance of school bonds and for application of all other provisions of law with reference to issuance and payment of school bonds to such specified areas. Ashcraft v. Board of Supvrs., 204 Miss. 65, 36 So. 2d 820 (1948).

Issuance of school bonds to construct, erect and equip new school building, to move, relocate, make alterations and additions to existing principal's residence, and to move, relocate, make alterations to building used as school building is within authorized purposes under Code 1942, §§ 4341 and 6370. Ashcraft v. Board of Supvrs., 204 Miss. 65, 36 So. 2d 820 (1948).

The purpose for the issuance of bonds under Code 1942, § 6370, must be free from ambiguity, and the proceeding for their issuance must clearly show such purposes upon their face, and show it with such certainty as will distinctly disclose that their issuance will be definitely within the statutory authority. Hisaw v. Ellison Ridge Consol. Sch. Dist., 189 Miss. 664, 198 So. 557 (1940).

The issuance of bonds in a proceeding on petition by a majority of electors of a consolidated school district was erroneous where the statement of purposes for the issuance of such bonds in the petition filed with the board of supervisors contained the abbreviation of et cetera, the inclusion of which made the petition broader than the statute, and prayed for things which the statute did not embrace. Hisaw v. Ellison Ridge Consol. Sch. Dist., 189 Miss. 664, 198 So. 557 (1940).

Code 1942, § 6370. Consolidated school law held not to discriminate between races, nor to deny equal protection of law nor take property without due process. Barrett v. Cedar Hill Consol. Sch. Dist., 123 Miss. 370, 85 So. 125 (1920).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 166, 167, 169, 170, 209.

22 Am. Jur. Pl & Pr Forms (Rev), Schools, Forms 31 et seq. (taxation by school districts; fees and bonds).

CJS. 78A C.J.S., Schools and School Districts §§ 757, 758.

§ 37-59-5. General limitation of indebtedness.

No school district shall, except as provided in Section 37-59-7, hereafter issue bonds for the purposes authorized by law in an amount which, added to all of its then outstanding bonded indebtedness, shall result in the imposition on any of the property in such district of an indebtedness for school purposes of more than fifteen per cent of the assessed value of the taxable property within such district, according to the then last completed assessment for taxation, regardless of whether any of such indebtedness shall have been incurred by such district or by another school district or districts.

SOURCES: Codes, 1942, § 6532-02; Laws, 1950, ch. 231, § 2; Laws, 1955, Ex Sess, chs. 52, 60; Laws, 1962, ch. 361; Laws, 1968, ch. 403, § 1, eff from and after passage (approved July 26, 1968).

Cross References — Applicability of bonded indebtedness limitations to certain lease contracts entered into by school districts, see § 37-7-359.

Issuance of bonds in amount exceeding limitation of this section, see § 37-59-7.

ATTORNEY GENERAL OPINIONS

The value of property that is taxable but is the subject of an agreement for fees in lieu of taxes may be considered in determining the value of taxable property within a school district for the purpose of ascertaining the 15 percent limitation on bonded indebtedness for school bonds under the statute. Akers, Feb. 9, 2001, A.G. Op. #2001-0042.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 56.

CJS. 78A C.J.S., Schools and School Districts §§ 759, 760.

§ 37-59-7. Issuance of bonds in amount exceeding limitation of Section 37-59-5.

(1)(a) Any school district in which the total number of pupils enrolled at any one time during the school year shall have increased by at least twenty percent (20%) or an average of three hundred fifty (350) or more annually within the preceding five (5) years, shall not issue bonds for the purposes authorized by law in an amount which when added to all of its then outstanding bonded indebtedness, shall result in the imposition on any of the property in such district of an indebtedness for school purposes of more than twenty-five percent (25%) of the assessed value of the taxable property within such district according to the then last completed assessment for taxation.

(b) Any school district in which the total number of pupils enrolled at any one time during the school year shall have increased by at least ten percent (10%) within the preceding five (5) years shall not issue bonds for the purposes authorized by law in an amount which, when added to all of its then outstanding bonded indebtedness, shall result in the imposition on any of the property in such district of an indebtedness for school purposes of more than twenty percent (20%) of the assessed value of the taxable property within such district according to the then last completed assessment for taxation.

(c) The pupil increase mentioned in this subsection shall apply only to growth in pupil enrollment and shall not apply to pupil increases brought about by consolidation of school districts.

(2) Any school district may hereafter issue bonds in an amount exceeding the limit of Section 37-59-5 for the purpose of constructing, reconstructing, repairing, equipping, remodeling or enlarging school buildings and related

facilities, as described in subsection (a) of Section 37-59-3, but no such district shall issue bonds in an amount which when added to all of its then outstanding bonded indebtedness, shall result in the imposition on any of the property in such district of an indebtedness for such school purposes of more than twenty percent (20%) of the assessed value of the taxable property in such district, according to the then last completed assessment for taxation, regardless of whether any of such indebtedness shall have been incurred by such district or by another school district or districts:

(a) In the event of the damage to or destruction of any school building or school buildings, or related facilities of any such district by fire, windstorm, flood or other providential and unforeseeable cause; or

(b) In the event such school district has lost its accreditation and the constructing, reconstructing, repairing, equipping, remodeling or enlarging of such school buildings and related facilities is necessary for the restoration of such accreditation; or

(c) In the event of the establishment of the Starkville-Oktibbeha Consolidated School District as authorized in Section 37-7-104.3(8) and (9).

(3) In any school district wherein more than nine percent (9%) of the total land area of the school district is owned by the federal government and situated in a flood control reservoir or maintained as a part of the national forest system, the said school district may issue bonds in an amount, which when added to all of its then outstanding bonded indebtedness for school purposes, shall result in the imposition on any of the property in such school district of an indebtedness for school purposes of not more than twenty percent (20%) of the assessed value of the taxable property within such district, according to the then last completed assessment for taxation, regardless of whether any of such indebtedness shall have been incurred by such district or by another school district or districts. If bonds in an amount in excess of fifteen percent (15%) of the total assessed value of the property of a school district are issued under the provisions of this subsection, not less than twenty-five percent (25%) of the total funds received by the school district under the provisions of Section 49-19-23, Mississippi Code of 1972, shall be paid into the bond and interest sinking fund of such district and used for the retirement of the bonds so issued.

(4) In any district where the assessed valuation per pupil is less than seventy-five percent (75%) of the average of all school districts, such school district may issue bonds for the purposes authorized by Section 37-59-3 in an amount exceeding the fifteen percent (15%) debt limitation set forth in Section 37-59-5, but not exceeding an amount which, when added to all of the school district's then outstanding bonded indebtedness, shall result in the imposition on any of the property in such district of an indebtedness for such school purposes of more than twenty-five percent (25%) of the assessed value of the taxable property in such district, according to the then last completed assessment for taxation if:

(a) The board of trustees or board of education of the school district adopts a resolution finding that issuing bonds in an amount exceeding the limitation stated in Section 37-59-5 is necessary to provide or maintain adequate educational facilities within the school district; and

(b) The notice of the bond election required by Section 37-59-13 contains a provision notifying the qualified electors in the school district:

(i) Of the fact that the proposed bonds, if issued, will exceed the fifteen percent (15%) debt limit contained in Section 37-59-5; and

(ii) Of the reasons why the school district is proposing to exceed said limitation;

(c) The election is held and the proposed bond issue receives the requisite voter approval as set forth in Section 37-59-17.

SOURCES: Codes, 1942, § 6532-02; Laws, 1950, ch. 231, § 2; Laws, 1955, Ex Sess, chs. 52, 60; Laws, 1962, ch. 361; Laws, 1968, ch. 403, § 1; Laws, 1986, ch. 492, § 169; brought forward and amended, Laws, 1987, ch. 307, § 25; Laws, 1995, ch. 440, § 1; Laws, 2008, ch. 377, § 1; Laws, 2014, ch. 537, § 3, eff from and after passage (approved Apr. 24, 2014.)

Amendment Notes — The 2014 amendment added (2)(c), and made a related stylistic change.

Cross References — Applicability of bonded indebtedness limitations to certain lease contracts entered into by school districts, see § 37-7-359.

§ 37-59-9. Bonds and notes excluded for purposes of computing limitations of indebtedness.

No bonds or negotiable notes issued by any school district in order to comply with the provisions of Section 37-47-15, shall be included in computing the debt limits established in Sections 37-59-5, 37-59-7.

SOURCES: Codes, 1942, § 6532-02; Laws, 1950, ch. 231, § 2; Laws, 1955, Ex Sess, chs. 52, 60; Laws, 1962, ch. 361; Laws, 1968, ch. 403, § 1, eff from and after passage (approved July 26, 1968).

§ 37-59-11. Adoption of bond issue resolution; requirement of election on issuance of bonds.

(1) Before any money shall be borrowed under the provisions of this chapter, the school board of the school district shall adopt a resolution declaring the necessity for borrowing such money, declaring its intention to borrow such money and to issue the negotiable bonds of the school district as evidence of same, specifying the approximate amount to be so borrowed, and how such indebtedness is to be evidenced. Such resolution shall also set forth the nature and approximate cost of the alterations, additions and repairs to be made, and shall declare in said resolution that no funds are available in the school funds of the district or from any other source with which to make such repairs, alterations, additions, purchases, erections or improvements.

(2) Whenever a resolution is adopted by the school board as provided in subsection (1), or a petition signed by not less than ten percent (10%) of the qualified electors of a school district, fixing the maximum amount of such

school bonds and the purpose or purposes for which they are to be issued, the school board shall adopt a resolution calling an election to be held within such school district for the purpose of submitting to the qualified electors thereof the question of the issuance of bonds in the amount and for the purpose or purposes as set forth in such resolution or petition. The resolution calling such election shall designate the date upon which the election shall be held and the place or places within such district at which such election shall be held, which place or places may or may not be the school house or school houses in such district.

(3) Provided, however, anything herein to the contrary notwithstanding, no election shall be required for approval of bonds issued after July 1, 1987, and prior to July 1, 1988, or within one (1) year after the final favorable termination of any litigation affecting the issuance of such bonds, and as to which the resolution of necessity and intent to issue by the school board of the school district is passed and publication thereof commenced on or before June 30, 1987, unless a petition calling for such election is filed meeting the requirements and within the time provided by this Section 37-59-11 as in effect between April 15, 1986, and June 30, 1987.

SOURCES: Codes, 1942, § 6532-04; Laws, 1950, ch. 231, § 4; Laws, 1986, ch. 492, § 170; Laws, 1987, ch. 307, § 26, eff from and after July 1, 1987 (approved March 3, 1987).

Cross References — Notice of election on issuance of bonds, see § 37-59-13.

JUDICIAL DECISIONS

1. In general.
2. Order and notice.
3. Expenditure of funds for promotion.
4.-10. [Reserved for future use.]
11. Under former law.

1. In general.

In an action challenging the validity of certain construction and renovation general obligation school bonds, the filing of a certified copy of the resolution adopted by the school district's board of trustees with the governing authority of the municipality fulfilled the requirement of § 37-59-11, even though the incorporation in full of the resolution in the minutes of the governing authority would have been the better practice; nor did the assessment of property for taxes pursuant to § 21-33-9 violate the Mississippi Constitution, art. 4, § 112, where the assessment was not void on its face and where there was nothing showing that the orders of the municipality's governing body or the orders of the county board of supervisors in approving the assessments were void. Walters v. Validation of $3,750,000.00 Sch. Bonds of Petal Mun. Separate Sch. Dist., 364 So. 2d 274 (Miss. 1978).

2. Order and notice.

The order for a school bond election and notice thereof are not too general in not including plans and specifications. In re $250,000 Sch. Bonds, 246 Miss. 470, 150 So. 2d 412 (1963).

3. Expenditure of funds for promotion.

A school board's expenditures of $21,548.92 to pay campaign workers to promote passage of a bond referendum for new school buildings and $945.03 for lunch for poll workers on election day constituted illegal expenditures since a school district is without explicit or implicit statutory authority to expend taxpayer funds in a promotional effort for the passage of a bond referendum; neither §§ 37-59-1 et seq., which is devoted to school bonds and obligations, nor § 37-7-301(d), which empowers local school districts to construct schools, authorize a school board to spend public funds to promote passage of a bond issue, and therefore board members who voted affirmatively for the advertising budget from which the expenditures were made would be personally liable for the illegal expenditures. Smith v. Dorsey, 599 So. 2d 529 (Miss. 1992).

4.-10. [Reserved for future use.]

11. Under former law.

School bonds of a "specified area" can validly be issued without an election provided proceedings are initiated upon petition of a majority of qualified electors residing in the area, but if proceedings are initiated upon petition of 20% of qualified electors, but less than a majority of all, an election is necessary to determine the will of the majority. Ashcraft v. Board of Supvrs., 204 Miss. 65, 36 So. 2d 820 (1948).

Where a majority of the qualified electors residing in a consolidated school district, by petition, request issuance of bonds for certain school purposes, it is not necessary to call for an election on the question, in the absence of a request in the petition itself calling for such an election, and the requirement that the bond shall be issued "in the manner provided for by law," in such case, has no reference to the provisions of this section [Code 1942, § 6532] but refers to the details of the issuance. In re Validation Bonds of Orange Grove Consol. Sch. Dist., 187 Miss. 373, 193 So. 6 (1940).

Proceedings for issuance of bonds of consolidated school district should clearly show purposes, and with such certainty that issuance will be wholly within statutory power. Board of Supvrs. v. Clark, 163 Miss. 120, 140 So. 733 (1932).

Petition for bond issue of consolidated school district and notice of election thereon, stating purpose to include "furnishing ... necessary school supplies," held to render bonds illegal. Board of Supvrs. v. Clark, 163 Miss. 120, 140 So. 733 (1932).

Person signing petition for election on question of issuing bond could remove their name from the original petition by signing a counter petition. Price v. Sims, 116 Miss. 687, 77 So. 649 (1918).

Petition requesting submission of bond issue to the voters for their rejection or approval, signed by twenty per cent of the voters, held insufficient, it not being a petition against issuance of the bonds. Trustees of Walton Sch. v. Board of Supvrs., 115 Miss. 117, 75 So. 833 (1917).

ATTORNEY GENERAL OPINIONS

The Election Commission may hold a special election on a separate and distinct school bond issue on the same date as the General Election provided that the procedural requirements of Sections 37-59-11 et seq., particularly the notice provision of Section 37-59-13, are met. Stringer, September 27, 1996, A.G. Op. #96-0656.

A bond election involving a municipal separate school district, even one with added territory from the county, is primarily a municipal election and, therefore, the municipal election commission is the proper body to conduct the election on the question of issuing bonds for a municipal separate school district; however, since the municipal separate school district does have added territory from the county, the county registrar should cooperate with and supply to the municipal election commission an accurate list of county voters eligible to participate in the election. Shepard, June 26, 1998, A.G. Op. #98-0365.

Proceeds from a specified bond issue approved by the voters could not be used for the construction of a high school other than in a specific area where it did not provide for the construction and equipping of a high school in any other location. Adams, March 26, 1999, A.G. Op. #99-0121.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 126-128.

CJS. 78A C.J.S., Schools and School Districts §§ 532-537, 540-545.

§ 37-59-13. Notice of election.

Where an election has been called, as provided in Section 37-59-11, notice of such election shall be signed by the president of the school board and shall be published once a week for at least three (3) consecutive weeks, in at least one (1) newspaper published in such school district. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed for such election, and the last publication shall be made not more than seven (7) days prior to such date. If no newspaper is published in such school district, then such notice shall be given by publishing the same for the required time in some newspaper having a general circulation in such school district.

SOURCES: Codes, 1942, § 6532-05; Laws, 1950, ch. 231, § 5; Laws, 1986, ch. 492, § 171; brought forward, Laws, 1987, ch. 307, § 27, eff from and after passage (approved March 3, 1987).

JUDICIAL DECISIONS

1.-10. [Reserved for future use.]
11. Under former law.

1.-10. [Reserved for future use.]

11. Under former law.

Notice of election on bond issue for consolidated school district must accurately state purpose thereof. Board of Supvrs. v. Clark, 163 Miss. 120, 140 So. 733 (1932).

Order of board of supervisors for issuance of building bonds of consolidated school without proof on file of publication of election notice held void. Board of Supvrs. v. Ottley, 146 Miss. 118, 112 So. 466 (1926).

ATTORNEY GENERAL OPINIONS

The Election Commission may hold a special election on a separate and distinct school bond issue on the same date as the General Election provided that the procedural requirements of Sections 37-59-11 et seq., particularly the notice provision of Section 37-59-13, are met. Stringer, September 27, 1996, A.G. Op. #96-0656.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 127, 129.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations § 214:16 (notice of bond deduction).

CJS. 78A C.J.S., Schools and School Districts §§ 765-770, 773-778.

§ 37-59-15. Conduct of election.

Such election shall be held upon order of the school board, as far as is practicable, in the same manner as other elections are held in such county or municipality. At such election, all qualified electors of such school district may vote. The ballots used at such election shall have printed thereon a brief statement of the amount and the purpose of the proposed bond issue, and the words "FOR THE BOND ISSUE," and "AGAINST THE BOND ISSUE." The voter shall vote by placing a cross (X) or check mark (√) opposite his choice on the proposition.

SOURCES: Codes, 1942, § 6532-06; Laws, 1950, ch. 231, § 6; Laws, 1986, ch. 492, § 172; brought forward, Laws, 1987, ch. 307, § 28, eff from and after passage (approved March 3, 1987).

ATTORNEY GENERAL OPINIONS

A bond election involving a municipal separate school district, even one with added territory from the county, is primarily a municipal election and, therefore, the municipal election commission is the proper body to conduct the election on the question of issuing bonds for a municipal separate school district; however, since the municipal separate school district does have added territory from the county, the county registrar should cooperate with and supply to the municipal election commission an accurate list of county voters eligible to participate in the election. Shepard, June 26, 1998, A.G. Op. #98-0365.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 133 et seq.

CJS. 78A C.J.S., Schools and School Districts §§ 765-770, 773-778.

§ 37-59-17. Determination of results of election; time period for issuance of bonds.

When the results of the election on the question of the issuance of such bonds shall have been canvassed by the election commissioners of such county or municipality, and certified by them to the school board of the school district, it shall be the duty of such school board to determine and adjudicate whether or not three-fifths (3/5) of the qualified electors who voted in such election voted in favor of the issuance of such bonds. Unless three-fifths (3/5) of the qualified electors who voted in such election shall have voted in favor of the issuance of such bonds, then such bonds shall not be issued. Should three-fifths (3/5) of the qualified electors who vote in such election vote in favor of the issuance of such bonds, then the school board of such school district shall issue such bonds, either in whole or in part, within two (2) years from the date of such election, or within two (2) years after the final favorable termination of any litigation affecting the issuance of such bonds, as such school board shall deem best.

SOURCES: Codes, 1942, § 6532-07; Laws, 1950, ch. 231, § 7; Laws, 1986, ch. 492, § 173; brought forward, Laws, 1987, ch. 307, § 29, eff from and after passage (approved March 3, 1987).

JUDICIAL DECISIONS

1. In general.
2. Issuance of bonds.

1. In general.

Black voters failed to show that race accounted for "no" votes of white electorates in school bond issue elections, and thus they failed to show that § 37-59-17 (requiring school bond referenda to be passed by a 60 percent majority vote rather than a simple majority) violated the Voting Rights Act (42 USCS § 1973), where the black student population exceeded 50 percent in only 15 of 36 elections in which the 60 percent standard actually impacted the outcome of the election, and it was likely that the defeat of the bond issues stemmed from property owners' aversion to additional taxation. Armstrong v. Allain, 893 F. Supp. 1320 (S.D. Miss. 1994).

Procedure used by election commissioners and managers in determining the residence, qualifications of persons seeking to vote on school bond election complied with the statutes and constituted a practical method. Tedder v. Board of Supvrs., 214 Miss. 717, 59 So. 2d 329 (1952).

2. Issuance of bonds.

The county board of supervisors is required to issue school bonds if it finds all the jurisdictional facts to exist for so doing, for this section [Code 1942, § 6532-07] was enacted in the public interest, and it was not the intention of the legislature that a board of supervisors might arbitrarily decline to issue bonds where such jurisdictional facts exist for their issuance. Franklin v. Quitman County Bd. of Educ., 288 F. Supp. 509 (N.D. Miss. 1968).

ATTORNEY GENERAL OPINIONS

It is the duty of the school board, and not the election commission, to determine whether or not a 3/5 majority vote has been attained; the commission only certifies the votes, determining the number of legal votes and how many votes were in favor and against the bond election. Minor, Nov. 14, 1991, A.G. Op. #91-0793.

Only ballots in which qualified voters have voted for or against the bond election shall be counted to determine whether a 3/5's majority has been reached. Merely because a qualified elector votes on a ballot which contains a bond election as well as other elections does not mean that the voter participated in the bond election. Minor, Nov. 14, 1991, A.G. Op. #91-0793.

If voters voted in other elections but did not vote in the bond election, their ballots should not be counted for the purpose of determining the total number of qualified electors who voted in the bond election. Minor, Nov. 14, 1991, A.G. Op. #91-0793.

A bond election involving a municipal separate school district, even one with added territory from the county, is primarily a municipal election and, therefore, the municipal election commission is the proper body to conduct the election on the question of issuing bonds for a municipal separate school district; however, since the municipal separate school district does have added territory from the county, the county registrar should cooperate with and supply to the municipal election commission an accurate list of county voters eligible to participate in the election. Shepard, June 26, 1998, A.G. Op. #98-0365.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 139 et seq.

20 Am. Jur. Pl & Pr Forms (Rev), Public Securities and Obligations, Form 44 (complaint, petition, or declaration for declaratory judgment as to validity of approval by electors of act authorizing bond issue and to restrain issuance if invalid); Form 55 (complaint, petition, or declaration for declaratory judgment that ordinance autho-

rizing bond issue is invalid and to enjoin payment of bonds issued and issuance of additional bonds).

CJS. 78A C.J.S., Schools and School Districts §§ 765-770, 773-778.

§ 37-59-19. Procedure for issuance of bonds upon petition of majority of qualified electors of school district generally.

When a petition signed by a majority of the qualified electors residing within the school district on behalf of which bonds are to be issued, fixing the maximum amount of such bonds, such maximum amount not to exceed Ten Thousand Dollars ($10,000.00), and the purpose or purposes for which they are to be issued, shall be filed with the school board of the school district, praying for the issuance of bonds for any of the purposes enumerated in Section 37-59-3, the school board shall issue the bonds of such school district in the manner provided in this article, in the amount and for the purpose or purposes set forth in such petition, without the necessity of calling an election upon the question of whether or not such bonds shall be issued. The finding of the school board as to the sufficiency of any such petition shall be final and conclusive, unless such finding be appealed from in the manner provided by law.

SOURCES: Codes, 1942, § 6532-08; Laws, 1950, ch. 231, § 8; Laws, 1954, ch. 257, § 1; Laws, 1986, ch. 492, § 174; Laws, 1987, ch. 307, § 30, eff from and after passage (approved March 3, 1987).

Cross References — Necessity that petitions be signed personally by petitioners, see § 1-3-75.

Issuance of bonds upon petition of electors where district lies in two or more counties, see § 37-59-21.

JUDICIAL DECISIONS

1. In general.
2. Scope of review.
3.-10. [Reserved for future use.]
11. Under former law.

1. In general.

School bonds may be issued upon petition of a majority of qualified voters, without an election and without notice. In re Magee Consol. Sch. Bonds, 212 Miss. 454, 54 So. 2d 664 (1951).

2. Scope of review.

On appeal to the circuit court from an order of the board of supervisors of Neshoba County directing issuance of bonds in the amount of $40,000 for the benefit of a high school, the circuit court had authority to hear and determine the matter only on the case as presented by the bill of exceptions as an appellate court, and hence the trial court was correct in refusing to permit the introduction of evidence on the hearing of the cause in the circuit court. East Neshoba Vocational High Sch. Bonds v. Board of Supvrs., 213 Miss. 146, 56 So. 2d 394 (1952).

3.-10. [Reserved for future use.]

11. Under former law.

Act of 1948, ch 295, authorizing board of trustees of consolidated school districts, in their discretion, to issue bonds on petition of majority of qualified electors of such districts as provided in Code 1942, § 6370, authorizing issuance of bonds for improvement and repairs of school buildings, did not repeal § 6370, but merely provided an additional method of issuing bonds. In re Savannah Special Consol. Sch. Dist., 208 Miss. 460, 44 So. 2d 545 (1950).

If majority of qualified electors do not sign petition for bond issue under Code 1942, § 6370, petition is insufficient, power of board to issue bonds is destroyed, and bond issue cannot be upheld and validated, because not authorized in conformity to law. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

It is necessary for order of board of supervisors granting petition for issuance of bonds under Code 1942, § 6370, to recite that petition has been signed by majority of qualified electors, that school district was legally organized and existing, that amount of bonds petitioned for will not exceed any constitutional or statutory limitation, and that bonds are being issued for purposes authorized by law as set forth in this section. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

When majority of those entitled to vote, by petition pray for issuance of bonds by consolidated school districts, under provisions of Code 1942, § 6370, an election is unnecessary. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

Provision that board of supervisors "may" issue bonds for consolidated school district means that board shall do so if they find all jurisdictional facts to exist for so doing, since statute was enacted in public interest, and it was not intention of legislature that a board of supervisors may arbitrarily decline to issue bonds where such jurisdictional facts exist for their issuance. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

It is judicial function of board of supervisors to decide question of whether or not majority of qualified electors of school district have petitioned for issuance of bonds, to determine whether amount petitioned for will exceed any statutory limitation thereon, and to determine whether or not bonds are to be issued for purposes authorized by law, and this judicial function of board cannot be controlled by writ of mandamus. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

It becomes mere ministerial duty of board of supervisors to issue bonds for consolidated school district as petitioned for, performance of which duty can be compelled by mandamus, when the presence of all jurisdictional facts has been affirmatively adjudicated by board, or by circuit court upon appeal from order of board. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

In proceedings for issuance of bonds, under Code 1942, § 6370, allegations of objectors that signers of petition did not constitute a majority, which, if true, would render bonds void, was improperly stricken by the court, which should have heard and determined the same as required by due process. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

The approval and adoption of plans for the improvement is not required before bonds may be issued under Code 1942, § 6370. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

Since bonds for consolidated school districts may be issued on petition of majority of qualified electors under Code 1942, § 6370, and no provision is made for notice to those affected so that they may have an opportunity to be heard prior to issuance, the validating act, Code 1942, § 4314, must be construed so as to give to those who have had no opportunity to protest action of board the right to hearing, when they respond to notice to taxpayers in validation proceedings, otherwise state constitutional provision against deprivation of property except by due process of law is violated. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

When board of supervisors rejects petition of electors residing in consolidated school district for issuance of bonds, for reason board deems sufficient, or for no reason at all, without adjudicating necessary jurisdictional facts to exist, remedy of petitioners is appeal to circuit court under Code 1942, § 1195, and not petition for writ of mandamus under Code 1942, § 1109, on which appeal petitioners can obtain in circuit court adjudication of all jurisdictional facts which are alleged to have existed by having such facts embodied in bill of exceptions. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

Remedy of one who is party to proceedings before board of supervisors and is aggrieved by its decision is by appeal on bill of exceptions to circuit court, under Code 1942, § 1195, and if this remedy is not pursued as provided by law, objections to board's decision constitute collateral attack which cannot be maintained. Board of Supvrs. v. State ex rel. Crisler, 205 Miss. 43, 38 So. 2d 314 (1949).

The act of the president of a board of supervisors, in signing bill of exceptions to the board's order for issuance of school bonds, was an acknowledgment that the objections set out in the bill were in fact made by the persons who had appeared as objectors, but did not constitute an agreement that the facts therein recited were true. Adcock v. Board of Supvrs., 191 Miss. 379, 2 So. 2d 556 (1941).

Where bill of exceptions in appeal in from order of board of supervisors, adjudicating all necessary jurisdictional facts to entitle board to issue bonds on behalf of consolidated school district, undertook to recite the matters and things which had transpired at the meeting at which order had been made, by setting forth the objections made at the meeting and averring facts in conflict with the express adjudications contained in order, but failed to state grounds on which judgment appealed from had been entered, as required by statute in case of appeal, order appealed from, which was attached to the bill of exceptions as an exhibit and made a part thereof by statute, was affirmed. Adcock v. Board of Supvrs., 191 Miss. 379, 2 So. 2d 556 (1941).

Where a majority of the qualified electors residing in a consolidated school district, by petition, request issuance of bonds for certain school purposes, it is not necessary to call for an election on the question, unless the petition itself is qualified by a request therein that an election be called; and the requirement that the bond shall be issued "in the manner provided for by law" has reference to the details of the issuance, and not to the primary question whether the bonds shall be issued. In re Validation Bonds of Orange Grove Consol. Sch. Dist., 187 Miss. 373, 193 So. 6 (1940).

Mistake of county school board in locating school house outside of district and in another county did not render order of board creating the district invalid. Keeton v. Board of Supvrs., 117 Miss. 72, 77 So. 906 (1918).

Board of supervisors properly refused to allow amendment of petition for bond issue in absence of petition. Trustees of Walton Sch. v. Board of Supvrs., 115 Miss. 117, 75 So. 833 (1917).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 114-116.

CJS. 78A C.J.S., Schools and School Districts § 761.

§ 37-59-21. Procedure for issuance of bonds upon petition where district lies in two or more counties.

If the territory of such school district as is provided for in section 37-59-19, lies in two or more counties, bonds may be issued as provided herein by the board of supervisors of the county having the greatest assessed valuation of taxable property within such district, upon petition of a majority of the qualified electors residing within the district as a whole. In such cases, a counterpart of the petition shall be separately circulated in that part of the district situated within each of the counties involved, and the said petitions shall be filed with the respective boards of supervisors. Each such board shall thereupon determine, by resolution entered upon its minutes, the number of qualified electors of such county residing within such district, and the number of qualified electors of such district who have signed such petition, and shall transmit a certified copy of such resolution and of such petition to the board of supervisors of the county having the greater assessed valuation of taxable property within such district. The latter board shall thereupon determine, by resolution entered upon its minutes, the total number of qualified electors residing within such district as a whole, and the total number of qualified electors of such district who have signed such petitions. If the latter board thereupon finds and determines that such petitions have been signed by a majority of all of the qualified electors residing within such district, regardless of county lines, such board may proceed to issue bonds in the amount and for the purpose or purposes set forth in such petition.

The maximum amount of such bonds which may be issued by petition shall not exceed the sum of ten thousand dollars ($10,000.00), and the total amount of bonds so issued by petition in any twelve-month period shall not exceed the sum of ten thousand dollars ($10,000.00).

SOURCES: Codes, 1942, § 6532-08; Laws, 1950, ch. 231, § 8; Laws, 1954, ch. 257, § 1.

Cross References — Necessity that petitions be signed personally by petitioners, see § 1-3-75.

Procedure for issuance of bonds upon petition of electors generally, see § 37-59-19.

Issuance of bonds upon election where district lies in two or more counties, see § 37-59-22.

JUDICIAL DECISIONS

1. In general.
2. Scope of review.

1. In general.

School bonds may be issued upon petition of a majority of qualified voters, without an election and without notice. In re Magee Consol. Sch. Bonds, 212 Miss. 454, 54 So. 2d 664 (1951).

2. Scope of review.

On appeal to the circuit court from an order of the board of supervisors of Neshoba County directing issuance of bonds in the amount of $40,000 for the benefit of a high school, the circuit court had authority to hear and determine the matter only on the case as presented by the bill of exceptions as an appellate court, and hence the trial court was correct in refusing to permit the introduction of evidence on the hearing of the cause in the circuit court. East Neshoba Vocational High Sch. Bonds v. Board of Supvrs., 213 Miss. 146, 56 So. 2d 394 (1952).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 114-116.

CJS. 78A C.J.S., Schools and School Districts § 761.

§ 37-59-22. Procedure for issuance of bonds upon election where district lies in two or more counties; levy of special tax.

Whenever a school district lies in two (2) or more counties of the State of Mississippi before any money shall be borrowed under the provisions of this chapter, the school board of the school district shall adopt a resolution declaring the necessity for borrowing such money, declaring its intention to borrow such money and to issue the negotiable bonds of the school district as evidence of same, specifying the approximate amount to be so borrowed, and how such indebtedness is to be evidenced. Such resolution shall also set forth the nature and approximate cost of the alterations, additions and repairs to be made, and shall declare in said resolution that no funds are available in the school funds of the district or from any other source with which to make such repairs, alterations, additions, purchases, erections or improvements.

Whenever a resolution is adopted by the school board as provided in this paragraph, or a petition signed by not less than ten percent (10%) of the qualified electors of a school district, fixing the maximum amount of such school bonds and the purpose or purposes for which they are to be issued, the school board shall adopt a resolution calling an election to be held within such school district for the purpose of submitting to the qualified electors thereof the question of the issuance of bonds in the amount and for the purpose or purposes as set forth in such resolution or petition. The resolution calling such election shall designate the date upon which the election shall be held and the place or places within such district at which such election shall be held, which place or places may or may not be the schoolhouse or schoolhouses in such district.

The board of supervisors of the county which authorizes the issuance of the bonds shall annually levy upon all the taxable property within such district, without regard to county lines, a special tax, which shall be sufficient to provide for the payment of the principal of and interest on such bonds according to the terms thereof. Such board shall annually certify to the board of supervisors of the other county or counties in which a portion of the district is situated, the rate of taxation so fixed, and it shall be the duty of such other board or boards to cause such rate of taxation to be levied upon all the taxable property within the boundaries of such district situated within their respective counties. The taxes shall be collected and deposited as other taxes are collected and deposited in such county or counties, and the board of supervisors thereof shall thereupon cause such taxes to be remitted to the county depository for the county in which the bonds were issued.

SOURCES: Laws, 1978, ch. 409, § 1; Laws, 1993, ch. 327, § 1, eff from and after August 9, 1993 (the date the United States Attorney General interposed no objections under Section 5 of the Voting Rights Act of 1965, to the amendment of this section).

Editor's Note — On August 9, 1993, the United States Attorney General interposed no objections under Section 5 of the Voting Rights Act of 1965, to the amendment of this section by Laws of 1993, ch. 327, § 1.

Cross References — Procedure for issuance of bonds upon petition where district lies in two or more counties, see § 37-59-21

Additional requirements relating to special tax levy, see § 37-59-23.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 114-116, 126 et seq., 133 et seq., 309, 311, 312, 316.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations § 214:16. (notice of bond election).

20 Am. Jur. Pl & Pr Forms (Rev) Public Securities and Obligations, Forms 2, 5, 6 (initiating petitions or applications).

CJS. 78A C.J.S., Schools and Schools Districts §§ 763, 765-770, 773-778.

§ 37-59-23. Levy of special tax to pay principal and interest on bonds.

The levying authority, as defined in Section 37-57-1(1)(b), acting for and on behalf of any school district, shall annually levy a special tax upon all of the taxable property within such school district, except as provided in Section 37-7-104.3(8) and (9), which shall be sufficient to provide for the payment of the principal of and the interest on school bonds issued under the provisions of this article according to the terms thereof, including any school bonds issued pursuant to Section 37-7-104.3(8) and (9).

In the case of school bonds issued under the provisions of Section 37-59-21, it shall be the duty of the board of supervisors of the county having the greater assessed valuation of taxable property within such district to annually levy upon all of the taxable property within such district, without regard to county lines, a special tax, which shall be sufficient to provide for the payment of the principal of and interest on such bonds according to the terms thereof. Such board shall annually certify to the board of supervisors of the other county or counties in which a portion of the district is situated the rate of taxation so fixed, and it shall be the duty of such other board or boards to cause such rate of taxation to be levied upon all of the taxable property within the boundaries of such district situated within their respective counties. Said taxes shall be collected and deposited as other taxes are collected and deposited in such county or counties, and the tax collector thereof shall thereupon cause such taxes to be remitted to the county depository of the county for which the bonds were issued.

SOURCES: Codes, 1942, §§ 6532-03, 6532-08; Laws, 1950, ch. 231, §§ 3, 8; Laws, 1954, ch. 257, § 1; Laws, 1971, ch. 341, § 1; Laws, 1986, ch. 492, § 175; brought forward, Laws, 1987, ch. 307, § 31, Laws, 1988, ch. 301, § 1; Laws, 2014, ch. 537, § 4, eff from and after passage (approved Apr. 24, 2014.)

Amendment Notes — The 2014 amendment, in the first paragraph, inserted “except as provided in Section 37-7-104.3(8) and (9),” and added “including any school bonds issued pursuant to Section 37-7-104.3(8) and (9)” at the end.

ATTORNEY GENERAL OPINIONS

Tunica County School District has authority to levy tax to repay EPA loan for asbestos removal from schools in district; taxes levied for payment of principal and interest on general obligation school bonds are excluded from increase limitations set for taxes. Dulaney, July 11, 1990, A.G. Op. #90-0401.

In accordance with Section 57-3-33, projects and property financed under the provisions of said chapter are exempt from all taxation except taxes levied pursuant to Section 27-65-21, Sections 37-57-105 and 37-59-23, and taxes levied pursuant to Section 27-39-329 when said tax is levied expressly "for school district purposes"; a tax levied under Section 37-29-141 for the support of junior (community) college districts is not for "school district purposes." Beech, Mar. 17, 2006, A.G. Op. 06-0009.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 309, 311, 312, 316.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:93 et seq. (call and redemption provisions).

CJS. 78A C.J.S., Schools and School Districts § 787.

§ 37-59-24. Instructions to deposit tax receipts directly with trustee or paying agent.

Notwithstanding any other provision of law, any school district having outstanding school debt which is repaid at least in part from local ad valorem tax receipts may, for the remaining term of such debt, irrevocably instruct the appropriate local tax collector/assessor in writing to deposit a portion of the monthly ad valorem tax collections for district purposes directly with any state or federally chartered bank serving as trustee or paying agent on such district debt. The district's instructions to the tax collector/assessor shall specify the amount of tax receipts to be so deposited with the trustee or paying agent and shall be binding on the district and local tax collector/assessor during the term of such debt.

SOURCES: Laws, 1996, ch. 534, § 8, eff from and after July 1, 1996.

§ 37-59-25. Form of bonds; supplemental powers conferred in issuance of bonds.

(a) All bonds issued under the provisions of this article shall be lithographed or engraved, and printed in two (2) or more colors, to prevent counterfeiting. Provided, however, where the bonds are sold to less than ten (10) purchasers at closing and the purchasers consent, a temporary bond or bonds may be issued in typewritten form pending preparation of the lithographed or engraved bonds for which the temporary bond or bonds may be subsequently exchanged. Such bonds shall be registered as issued, be numbered in a regular series from one (1) upward, and every such bond shall specify on its face the purpose for which it was issued and the total amount authorized to be issued, shall be made payable to bearer, or to the registered owner, and interest shall be evidenced by proper coupons thereto attached.

Notwithstanding the foregoing provisions of this section, bonds referred to hereinabove may be issued pursuant to the supplemental powers and authorizations conferred by the provisions of the Registered Bond Act, being Sections 31-21-1 through 31-21-7.

(b) Bonds issued under the provisions of this article may contain such covenants or other provisions as may be necessary to insure continuing compliance with any federal law applicable to such bonds or the tax exempt nature of the interest income thereon and to assure that such bonds will be readily acceptable in the municipal bond market, provided the same is not inconsistent with the Constitution of the state.

SOURCES: Codes, 1942, § 6532-03; Laws, 1950, ch. 231, § 3; Laws, 1971, ch. 341, § 1; Laws, 1983, ch. 494, § 15; Laws, 1987, ch. 307, § 32; Laws, 1988, ch. 466, § 11, eff from and after July 1, 1988.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 148 et seq.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:73 et seq. (bonds and coupons).

CJS. 79 C.J.S., Schools and School Districts § 371.

§ 37-59-27. Maturities of bonds; interest rates; execution of bonds; maintenance of register of bond issues.

All bonds issued by a school district shall mature annually, with all maturities not longer than twenty (20) years. Not less than one-fiftieth (1⁄50) total issue shall mature each year during the first five (5) years of the life of such bonds, and not less than one-twenty-fifth (1⁄25) of the total issue shall mature each year during the succeeding period of ten (10) years of the life of such bonds, and the remainder shall be amortized, as to principal and interest, into approximately equal annual payments, one (1) payment to mature each year for the remaining life of such bonds. However, in cases where bonds shall be issued or dated subsequent to the date fixed for making the school tax levy in the year in which such bonds are to be issued, the first maturity date of not less than one-fiftieth (1⁄50) of the total issue may be fixed for any period not exceeding two (2) years from the date of the bonds with the same schedule of subsequent maturities as hereinabove set forth. Such bonds shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-101, Mississippi Code of 1972. No bond shall bear more than one (1) rate of interest. Each bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid. All bonds of the same maturity shall bear the same rate of interest from date to maturity. All interest accruing on such bonds so issued shall be payable semiannually or annually, except that the first interest coupon attached to any such bond may be for any period not exceeding one (1) year.

No interest payment shall be evidenced by more than one (1) coupon and neither cancelled nor supplemental coupons shall be permitted. The lowest interest rate specified for any bonds issued shall not be less than seventy percent (70%) of the highest interest rate specified for the same bond issue. The interest rate of any one (1) interest coupon shall not exceed the maximum interest rate allowed on such bonds. Each interest rate specified in any bid must be in multiples of one-eighth of one percent (⅛ of 1%) or in multiples of one-tenth of one percent (1/10 of 1%), and a zero rate of interest cannot be named.

The form and place or places of payment of such bonds shall be fixed in the resolution or order of the school board of such school district issuing such bonds. Such bonds shall be executed by the manual or facsimile signature of the president of the school board and the superintendent of schools, with the official seal or facsimile thereof of such school district affixed thereto. At least one (1) signature on each bond shall be a manual signature, as specified in the issuing resolution. The coupons may bear only the facsimile signatures of such president of the school board and superintendent of schools. However, if so provided in the issuing resolution, if the manual signature of the trustee or other fiduciary or agent charged with authenticating and issuing the bonds is required to be thereon, both the signatures of the president of the school board and the superintendent of schools may be by facsimile. No bonds shall be issued and sold under the provisions of this article for less than par and accrued interest.

The bond register for all outstanding bond issues of such school district shall be maintained by the school board.

SOURCES: Codes, 1942, § 6532-09; Laws, 1950, ch. 231, § 9; Laws, 1969, Ex Sess, ch. 30, § 1; Laws, 1970, ch. 383, § 1; Laws, 1975, ch. 381; Laws, 1976, ch. 307; Laws, 1977, ch. 394; Laws, 1980, ch. 490, § 2; Laws, 1981, ch. 318, § 1; Laws, 1982, ch. 434, § 17; Laws, 1983, ch. 541, § 22; Laws, 1986, ch. 492, § 176; Laws, 1987, ch. 307, § 33, eff from and after passage (approved March 3, 1987).

Cross References — Limitation on the maximum interest rate to maturity on obligations issued under the provisions of this section, see § 75-17-101.

JUDICIAL DECISIONS

1.-10. [Reserved for future use.]
11. Under former law.

1.-10. [Reserved for future use.]

11. Under former law.

Bonds issued under this section [Code 1942, § 6370] were not void because of provision that they should mature without option of prior payment. In re Savannah Special Consol. Sch. Dist., 208 Miss. 460, 44 So. 2d 545 (1950).

An order of a board of supervisors for the issuance of twenty school bonds of equal denomination, the first to mature four years from the date of issue, and one each year thereafter until all were paid, was in violation of the statutory provision requiring that not less than one-fiftieth of the total of an issue of bonds shall mature each year during the first five years of the life of the bonds, although the statute authorized the issuance of bonds at such time within four years after the right of the board of supervisors to do so had accrued as the board might deem best. Shamblin v. Board of Supvrs., 192 Miss. 267, 5 So. 2d 675 (1942).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 155, 185.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:73 et seq. (bonds and coupons).

CJS. 78A C.J.S., Schools and School Districts § 784.

§ 37-59-29. Disposition of proceeds of bonds; liability for diversion of funds.

The proceeds of any bonds issued by a school district shall be placed in the county or municipal treasury or depository, as the case may be, if there be one, as a special fund, and shall be used for no other purpose than that for which such bonds were authorized to be issued. If the school board of the school district or any member thereof, or any other officer, shall wilfully divert or aid or assist in diverting any such fund, or any part thereof, to any purpose other than that for which such bonds were authorized to be issued, then such person shall be guilty of a felony and, upon conviction, shall be punished by imprisonment in the state penitentiary for a term not exceeding five (5) years. In addition, he shall be liable personally and on his official bond for the amount so diverted. Any member of such school board may escape the penalty provided for above by requesting and having his vote recorded in the negative on any illegal diversion of the proceeds of such bonds. Nothing contained in this section shall be construed to prevent the payment or rebate of a portion of the earnings derived from the investment of the bond proceeds to the federal government to the extent required by the federal laws applicable to such bonds or the interest income thereon in order to maintain their tax exempt status.

SOURCES: Codes, 1942, § 6532-10; Laws, 1950, ch. 231, § 10; Laws, 1953, Ex Sess, ch. 31, § 1; Laws, 1986, ch. 492, § 177; Laws, 1987, ch. 307, § 34, eff from and after passage (approved March 3, 1987).

ATTORNEY GENERAL OPINIONS

A resolution which declares that the purpose of the school bond is to provide for a new alternative school and such alternative school may be provided by remodeling or enlarging an existing school building located in the same school zone as originally contemplated does not violate Section 37-59-29. Harrell, May 3, 1996, A.G. Op. #96-0254.

Proceeds from a specified bond issue approved by the voters could not be used for the construction of a high school other than in a specific area where it did not provide for the construction and equipping of a high school in any other location. Adams, March 26, 1999, A.G. Op. #99-0121.

Use of bond proceeds to construct and equip a new elementary school and new middle school with both separate and common facilities would not violate Section 37-59-29. Adams, Mar. 4, 2005, A.G. Op. 05-0072.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 82.

§ 37-59-31. Election on withdrawing or revoking authority to issue bonds or on amending purpose for which bonds may be issued.

In any case where the issuance of the bonds of a school district has been authorized pursuant to referendum of the qualified electors of the school district under the provisions of this article, and at any time prior to the actual issuance and sale of said bonds, there should be a resolution adopted by the school board of the school district on whose behalf the bonds are to be issued requesting either that the authority to issue said bonds be withdrawn and revoked or that the purpose or purposes for which the bonds are to be issued be amended, altered and changed, in which latter case the resolution shall specify distinctly the amendment, alteration and change proposed, the school board shall, within sixty (60) days after the adoption of such resolution, call an election to be held within the school district involved for the purpose of submitting to the qualified electors thereof the question of whether the authority to issue the bonds should be withdrawn and revoked or whether the purpose or purposes for which the bonds are to be issued should be amended, altered and changed, as the case may be. The resolution calling said election shall designate the date upon which the election will be held and the place or places within such district at which same will be held, which place or places may or may not be the school house or school houses of such district. In all respects, notice of the election shall be given for the time and in the manner otherwise provided in this article with respect to elections upon the question of the issuance of bonds of the school district. The results of the election shall be canvassed, returned and determined as is otherwise provided in this article with respect to elections upon the question of the issuance of school district bonds. The ballots used at said election shall have printed thereon a brief statement of the proposal that the authority to issue the bonds be withdrawn and revoked, or of the proposal that the purpose or purposes for which the bonds are to be issued be amended, altered and changed, as the case may be and in the event the proposal be to amend, alter and change the purpose or purposes of the proposed issue of bonds, a brief statement of the amendments, alterations and changes proposed. There shall also be printed on the ballot the words “FOR THE PROPOSITION” and the words “AGAINST THE PROPOSITION” and the voter shall vote by placing a cross (X) or check mark (√) opposite his choice. If a majority of the qualified electors who vote in said election shall vote in favor of the proposition, and the proposition be to withdraw or revoke the authority to issue said bonds, then the authority to issue such bonds shall terminate; otherwise, the school board shall continue to have the power and authority to issue said bonds to the same extent as though such election shall not have been held. If a majority of the qualified electors who vote in said election shall vote in favor of the proposition, and the proposition be to amend, alter or change the purpose or purposes for which the bonds shall be issued, then the school board shall be authorized to issue said bonds for the purpose or purposes as amended, altered and changed; otherwise, the bonds shall be issued for the purpose or purposes originally specified.

SOURCES: Codes, 1942, § 6532-10; Laws, 1950, ch. 231, § 10; Laws, 1953, Ex Sess, ch. 31, § 1; Laws, 1986, ch. 492, § 178; Brought forward, Laws, 1987, ch. 307, § 35, eff from and after passage (approved March 3, 1987).

§ 37-59-33. Transfer of balance of proceeds of bond issue.

Whenever a balance shall remain of the proceeds of any bond issue after the purpose for which such bonds were issued shall have been accomplished, such balance shall forthwith be transferred to the bond and interest fund applicable to such bond issue.

SOURCES: Codes, 1942, § 6532-11; Laws, 1950, ch. 231, § 11, eff from and after July 1, 1950.

§ 37-59-35. Use of bond and interest funds to buy outstanding bonds.

Whenever there shall be on hand in any bond and interest fund an amount in excess of the amount which will be required for expenditure therefrom within the then next succeeding twelve (12) months, the school board may use such excess amount to purchase the outstanding bonds of such school district which are payable from such fund whenever, in the judgment of such school board, the best interest of the district would be served thereby. When such bonds are purchased, they shall be cancelled and retired and shall not thereafter be resold or reissued. Nothing contained in this section shall be construed to prevent the payment of a portion of the earnings derived from the investment of the amounts in the bond and interest fund to the federal government to the extent required by the federal laws applicable to such bonds or the interest income thereon in order to maintain their tax exempt status.

SOURCES: Codes, 1942, § 6532-12; Laws, 1950, ch. 231, § 12; Laws, 1986, ch. 492, § 179; Laws, 1987, ch. 307, § 36, eff from and after passage (approved March 3, 1987).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 193.

§ 37-59-37. Borrowing of money for current expenses in anticipation of school district taxes.

The school board of any school district shall have the power and authority to borrow money for the anticipated current year's expenses of such school district in anticipation of the collection of ad valorem taxes and other revenues of such school district for the then current fiscal year. The money so borrowed shall bear interest at a rate not greater than that allowed in Section 75-17-105 and shall be repaid within fourteen (14) months from the date of such borrowing out of the taxes and revenues in anticipation of which such money is borrowed. Such money shall be used for no other purpose than the payment of the current year's expenses of such school district. Pending the expenditure of funds borrowed under the provisions of this section, such funds may be invested in any manner in which any school district, municipality, county, state agency or other public body may invest surplus funds.

The amount borrowed under the provisions of this section shall in no event exceed the estimated amount of taxes and revenues collected or to be collected during the last preceding fiscal year, unless the tax levy for the current fiscal year has been made, then the amount borrowed under the provisions of this section shall in no event exceed the estimated amount of taxes and revenues collected or to be collected during the current fiscal year. Revenue anticipation notes issued under the provisions of this section shall be issued within the same fiscal year during which the tax levy is or will be made and other revenues received which it is anticipated will produce the funds from which the said notes will be repaid.

In borrowing money under the provisions of this section, it shall not be necessary to publish notice of intention so to do or to secure the consent of the qualified electors of such school district, either by election or otherwise. Such borrowing shall be authorized by order or resolution of the school board and may be evidenced by negotiable note or notes, signed and executed in such form as may be prescribed in such order or resolution. Such note or notes may be sold at a negotiated sale. Money may be borrowed in anticipation of ad valorem taxes and other revenues under the provisions of this section, regardless of whether or not such borrowing shall create an indebtedness in excess of statutory limitations.

Money may likewise be borrowed by any such school district, as herein provided, for the purpose of paying current interest maturities on any bonded indebtedness of such school district in anticipation of the collection of taxes for the retirement of such bonded indebtedness and the payment of any interest thereon.

SOURCES: Codes, 1942, § 6532-13; Laws, 1950, ch. 231, § 13; Laws, 1952, ch. 415, § 1; Laws, 1954, ch. 277; Laws, 1981, ch. 462, § 10; Laws, 1982, ch. 434, § 18; Laws, 1983, ch. 541, § 23; Laws, 1986, ch. 492, § 180; brought forward, Laws, 1987, ch. 307, § 37; Laws, 1991, ch. 491 § 1; Laws, 1992, ch. 468, § 1; Laws, 1993, ch. 56, § 6; Laws, 2001, ch. 356, § 1; Laws, 2005, 5th Ex Sess, ch. 17, § 1, eff from and after passage (approved Oct. 25, 2005.)

Cross References — Rate of interest which the notes described in this section shall bear, see § 75-17-105.

§ 37-59-39. Repealed.

Repealed by Laws, 1986, ch. 492, § 181, eff from and after July 1, 1987.

[Codes, 1942, § 6532-14; Laws, 1950, ch. 231, § 14; Am, Laws, 1981, ch. 462, § 11; Laws, 1982, ch. 434, § 19; Laws, 1983, ch. 541, § 24]

Editor's Note — Former § 37-59-39 authorized boards of supervisors to borrow in anticipation of a county-wide school ad valorem tax levy.

§ 37-59-41. Borrowing of money in anticipation of taxes for benefit of agricultural high schools.

The board of trustees of any agricultural high school shall have the power and authority to borrow money for the current expenses of such agricultural high school in anticipation of the collection of ad valorem taxes for the current fiscal year. The money so borrowed shall bear interest at a rate not greater than that allowed in Section 75-17-105, Mississippi Code of 1972, and shall be repaid not later than the following March 15 out of the first moneys collected by reason of the tax levy or levies in anticipation of which such money is borrowed. The money so borrowed shall be used for no other purpose than the payment of the current expenses of such agricultural high school. The amount borrowed under the provisions of this section shall in no event exceed fifty percent (50%) of the anticipated, but then uncollected, revenue to accrue to such agricultural high school by the tax levy or levies against which such money is borrowed.

In borrowing money under the provisions of this section, it shall not be necessary to publish notice of intention so to do or to secure the consent of the qualified electors, either by election or otherwise. Money may be borrowed under the provisions of this section by authority of a resolution of said board of trustees, and shall be evidenced by a negotiable note or notes, signed and executed in such form as may be prescribed in such resolution. Money may be borrowed in anticipation of ad valorem taxes under the provisions of this section, regardless of whether such borrowing shall create an indebtedness in excess of the statutory limitations.

SOURCES: Codes, 1942, § 6532-15; Laws, 1950, ch. 231, § 15; Laws, 1981, ch. 462, § 12; Laws, 1982, ch. 434, § 20; Laws, 1983, ch. 541, § 25, eff from and after passage (approved April 25, 1983).

Cross References — Agricultural high schools generally, see §§ 37-27-1 et seq.
Rate of interest which the notes described in this section shall bear, see § 75-17-105.

§ 37-59-43. Investment of surplus funds.

(1) Whenever any school district or levying authority, as defined in Section 37-57-1(1)(b), acting on behalf of a school district, shall have on hand

any bond and interest funds, any funds derived from the sale of bonds, or any other funds in excess of the sums which will be required for payment of current obligations and expenses as they come due, and which are not needed or cannot by law be used for the payment of the current obligations or expenses of the school district, the school board of the district shall have the power and authority to invest such excess funds in any bonds or other direct obligations of the United States of America or the State of Mississippi, or of any county or municipality of this state, which such county or municipal bonds have been approved by a reputable bond attorney or have been validated by a decree of the chancery court; or in interest-bearing time certificates of deposit or interest-bearing accounts with or through any financial institution approved for the deposit of state funds; and such institution shall be eligible to hold school district funds to the extent that it is qualified as a depository for state funds; or in any type of investment permitted by Sections 27-105-33(d) and 27-105-33(e). The rate of interest on such time certificates of deposit and interest-bearing accounts may be negotiated. The negotiated rate of interest shall be at the highest rate possible at the date of purchase or investment for such time certificates of deposit or interest-bearing accounts. In any event, the bonds or obligations in which such funds are invested shall mature or be redeemable prior to the time the funds so invested will be needed for expenditure. When bonds or other obligations have been so purchased, the same may be sold or surrendered for redemption at any time, except certificates of deposit which must mature, by order or resolution of such school board, and the president of the school board, when authorized by such order or resolution, shall have the power and authority to execute all instruments and take such other action as may be necessary to effectuate the sale or redemption thereof. In addition to the foregoing, any school board may invest any such funds in the same manner as provided for the investment of sixteenth section principal funds pursuant to Section 29-3-113.

(2) The provisions of subsection (1) of this section shall also apply to funds of community and junior college districts, and the governing authorities of such districts are vested with all power and authority with respect to such funds and matters herein mentioned as are vested in the other boards mentioned above with respect to such matters.

(3) All earnings from funds other than bond funds or bond sinking funds in excess of One Hundred Dollars ($100.00) in any fiscal year, invested according to the provisions of subsections (1) and (2) of this section shall be deposited in the district fund from which the investment was made, or the treasury of the junior college, as the case may be. Earnings from such school district funds which are less than One Hundred Dollars ($100.00) in any fiscal year may be deposited in the school district maintenance fund, or in the district fund from which the investment was made, in the discretion of the school board. Earnings from funds invested out of bond funds or bond sinking funds, together with the principal thereof, shall be deposited in the fund from which the investment was made.

(4) Nothing contained in this section shall be construed to prevent the payment of a portion of the earnings derived from the investment of bond

proceeds or any other amounts in the bond fund or related reserve or sinking funds to the federal government to the extent required by the federal laws applicable to such bonds or the interest income thereon in order to maintain their tax exempt status.

SOURCES: Codes, 1942, § 6532-16; Laws, 1950, ch. 231, § 16; Laws, 1958, ch. 292; Laws, 1963, 1st Ex Sess, ch. 16; Laws, 1974, ch. 503; Laws, 1977, ch. 413; Laws, 1985, ch. 310; Laws, 1986, ch. 492, § 182; Laws, 1987, ch. 307, § 38; Laws, 1988, ch. 301, § 2; Laws, 1988, ch. 473, § 10; Laws, 1993, ch. 562, § 7; Laws, 2002, ch. 451, § 1; Laws, 2002, ch. 636A, § 1; Laws, 2007, ch. 426, § 6, eff from and after passage (approved Mar. 22, 2007.)

Joint Legislative Committee Note — Section 1 of ch. 451, Laws of 2002, effective July 1, 2002, amended this section. Section 1 of ch. 636A, Laws of 2002, effective from and after passage (approved March 30, 2002), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the May 16, 2002 meeting of the Committee.

Editor's Note — Laws of 2002, ch. 636A, was House Bill 1337, 2002 Regular Session, and originally passed the House of Representatives on February 11, 2002, and the Senate on March 7, 2002. The Governor vetoed House Bill 1337 on March 27, 2002. The veto was overridden by the House of Representatives on March 29, 2002, and by the Senate on March 30, 2002.

Cross References — Investment of surplus funds by county, see § 19-9-29.

Investment and lending of sixteenth section principal funds, see § 29-3-113.

JUDICIAL DECISIONS

1. In general.

Bonds in which surplus funds have been invested may not be sold at less than their market value or without proceeding in accordance with common prudence and sound business judgment. Daniels v. Sones, 245 Miss. 461, 147 So. 2d 626 (1962).

ATTORNEY GENERAL OPINIONS

A school board can choose to exercise its authority to invest school funds, including sixteenth section principal funds, by establishing a district investment plan and authorizing a particular school official to implement the plan by carrying out purchases and sales of securities and other investments of the type authorized by § 29-3-113 and this section; the school board members would still be responsible for the safety of such funds and would not escape liability for their loss in the event they were lost through unlawful or negligent act of the designated school official approving transactions or any other person or by the failure to have the funds adequately capitalized as may be required by law in an applicable case. Turner, August 28, 1998, A.G. Op. #98-0475.

A school district may purchase such securities and obligations as allowed by state law through brokers, who may charge an agreed fee for their services, provided the fee is found by the school board to be reasonable and commensurate with those services; there is no authority for a school district to pay more than the market value of securities by means of a mark up by a dealer. Turner, August 28, 1998, A.G. Op. #98-0475.

A school board may not lawfully invest ad valorem tax receipts in commercially traded stocks and bonds (i.e., securities not underwritten by the full faith and credit of the State of Mississippi and/or direct obligations of the United States Treasury). Pate, January 15, 1999, A.G. Op. #98-0775.

An investment consultant may be hired to assist a school district with the investment of its surplus funds. Pate, January 15, 1999, A.G. Op. #98-0775.

This statute prevails for investments of excess funds for community/junior colleges. McLeod, Mar. 28, 2002, A.G. Op. #02-0119.

§ 37-59-45. Article as sole authority for incurring of indebtedness.

No interest-bearing indebtedness shall hereafter be incurred by any such school district except in the manner provided in this article or as may otherwise be provided by law.

SOURCES: Codes, 1942, § 6532-17; Laws, 1950, ch. 231, § 17, eff from and after July 1, 1950.

ARTICLE 3.

ADDITIONAL AUTHORITY TO ISSUE NOTES AND CERTIFICATES OF INDEBTEDNESS.

SEC.
37-59-101. Purposes for which money may be borrowed.
37-59-103. Adoption of resolution of necessity by board of trustees of school district.
37-59-105. Declaration of intention by local authorities; election; issuance of indebtedness.
37-59-107. Annual levy of special tax.
37-59-109. Procedure for issuance of bonds where district lies in two or more counties; levy of special tax.
37-59-111. Execution of negotiable notes or certificates of indebtedness; interest; maturity.
37-59-113. Disposition of proceeds of notes or certificates; disposition of balance of proceeds.
37-59-115. Limitation of indebtedness.

§ 37-59-101. Purposes for which money may be borrowed.

The school board of any school district in the county is authorized and empowered, in its discretion, to borrow money under the terms and conditions specified in this article for the purpose of making repairs, alterations and additions to school buildings of such school districts, for the purpose of erecting school buildings and other buildings used for school purposes, for the purpose of purchasing heating plants, air conditioning, fixtures and equipment for such buildings, for the purpose of purchasing land for school purposes, school buses and transportation equipment, and for the purpose of improving and equipping such lands for school recreational and athletic purposes.

SOURCES: Codes, 1942, § 6533-01; Laws, 1953, Ex Sess, ch. 30, § 1; Laws, 1956, ch. 275; Laws, 1968, ch. 409, § 1; Laws, 1986, ch. 492, § 183; brought

forward, Laws, 1987, ch. 307, § 39; Laws, 1991, ch. 534, § 14, eff from and after passage (approved April 11, 1991).

Cross References — Uniform system for issuance of negotiable notes or certificates of indebtedness, see §§ 17-21-51 et seq.

Issuance of county bonds generally, see §§ 19-9-1 et seq.

Issuance of municipal bonds generally, see §§ 21-33-301 et seq.

Issuance of bonds by municipalities and municipal separate school districts for establishment and maintenance of agricultural high schools, see § 37-27-63.

Issuance of bonds by counties for establishment and development of agricultural high schools, see § 37-27-65.

Issuance of bonds by municipalities and municipal separate school districts for establishment and maintenance of junior colleges, see § 37-29-265.

Issuance by state bond commission of state school bonds, see § 37-47-33.

Pledge of monies from Education Enhancement Fund to pay debt service on debt issued under this article, see § 37-61-33.

ATTORNEY GENERAL OPINIONS

Registrar's certification is prima facie evidence that petition was signed by individuals whose names appear thereon and that said individuals are qualified electors. In order for school board to disregard any name appearing on petition, substantial evidence must be presented at open meeting with proper notice and opportunity for interested parties to be heard. Doggett Sept. 8, 1993, A.G. Op. #93-0644.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 110-112.

CJS. 78A C.J.S., Schools and School Districts §§ 757, 758.

§ 37-59-103. Adoption of resolution of necessity by board of trustees of school district.

Before any money shall be borrowed under the provisions of this article, the school board of the school district shall adopt a resolution declaring the necessity for and its intention of borrowing such money, specifying the amount to be so borrowed, the date or dates of the maturity thereof, and how such indebtedness is to be evidenced. Such resolution shall also set forth the nature and approximate cost of the alterations, additions, and repairs to be made, or of the erections contemplated, or of the heating plant, fixtures and equipment necessary to be purchased, or of the land to be purchased, improved or equipped, or of the school buses and transportation equipment to be purchased, as the case may be, and shall declare in said resolution that no funds are available in the school funds of the district or from any other source with which to make such repairs, alterations, additions, purchases, erections or improvements.

SOURCES: Codes, 1942, § 6533-02; Laws, 1953, Ex Sess, ch. 30, § 2; Laws, 1986, ch. 492, § 184; Laws, 1987, ch. 307, § 40, eff from and after passage (approved March 3, 1987).

Cross References — Uniform system for issuance of negotiable notes or certificates of indebtedness, see §§ 17-21-51.

Declaration of intention by local authorities; election; issuance of indebtedness, see § 37-59-105.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 117.

CJS. 78A C.J.S., Schools and School Districts §§ 757, 758.

§ 37-59-105. Declaration of intention by local authorities; election; issuance of indebtedness.

The said resolution adopted by the school board pursuant to Section 37-59-103 shall be published once each week for two (2) consecutive weeks in a newspaper having a general circulation in the school district involved, with the first publication thereof to be made not less than fifteen (15) days prior to the date upon which the school board is to take final action upon the question of authorizing the borrowing of said money. If no petition requesting an election is filed prior to such meeting, then the school board shall, at said meeting, by resolution spread upon its minutes, give final approval to the borrowing of said money and shall authorize the issuance of negotiable notes or certificates of indebtedness of the school district therefor in accordance with the provisions of this article.

If at any time prior to said meeting a petition signed by not less than twenty percent (20%) of the qualified electors of the school district involved shall be filed with the school board requesting that an election be called on the question of incurring said indebtedness, then the school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon the question of the incurring of said indebtedness for the purposes and in the amount requested. Such election shall be called and held, and notice thereof shall be given, in the same manner provided in Article 1 of this chapter for elections upon the question of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. If three-fifths (3⁄5) of the qualified electors voting in said election shall vote in favor of incurring said indebtedness, then the school board shall proceed to issue said negotiable notes or certificates of indebtedness as prayed for in the original resolution of the school board; however, if less than three-fifths (3⁄5) of the qualified electors voting in said election vote in favor of incurring said indebtedness, then said notes or certificates of indebtedness shall not be issued.

Money may be borrowed under the provisions of this article and the negotiable notes or certificates of indebtedness evidencing same may be issued as provided in this article (1) without the necessity of being authorized in an election called for that purpose, except where a petition requesting an election is filed as provided herein and (2) without the necessity of giving notice thereof except as specifically provided herein, and specifically without the necessity of complying with the requirements of Section 31-19-25.

SOURCES: Codes, 1942, §§ 6533-03, 6533-09; Laws, 1953, Ex Sess, ch. 30, §§ 3, 9; Laws, 1986, ch. 429, § 3; Laws, 1986, ch. 492, § 185; Laws, 1987, ch. 307, § 41, eff from and after passage (approved March 3, 1987).

ATTORNEY GENERAL OPINIONS

Registrar's certification is prima facie evidence that petition was signed by individuals whose names appear thereon and that said individuals are qualified electors. In order for school board to disregard any name appearing on petition, substantial evidence must be presented at open meeting with proper notice and opportunity for interested parties to be heard. Doggett Sept. 8, 1993, A.G. Op. #93-0644.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 117, 126 et seq., 133 et seq.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations § 214:16 (notice of bond deduction).

20A Am. Jur. Pl & Pr Forms (Rev), Public Securities and Obligations, Form 44 (complaint, petition, or declaration for declaratory judgment as to validity of approval by electors of act authorizing bond issue and to restrain issuance if invalid).

CJS. 78A C.J.S., Schools and School Districts §§ 761, 762.

§ 37-59-107. Annual levy of special tax.

The levying authority for the school district shall annually levy a special tax on all of the taxable property of the school district on whose behalf the notes or certificates of indebtedness are issued, except as provided in Section 37-7-104.3(7), in an amount which shall be sufficient to pay the principal of and interest upon such negotiable notes or certificates of indebtedness as the same shall respectively mature and accrue, including any notes issued under the direction of a conservator of a school district pursuant to the authority of Section 37-7-104.3(7). Said tax shall be levied and collected at the same time and in the same manner as other taxes are collected and said tax shall be in addition to all other taxes authorized by law. It is expressly provided, however, that, except as provided in Section 37-7-104.3(7), such annual tax levy shall not exceed three (3) mills on the dollar for the payment of all notes issued under the provisions of this article and all notes previously issued under the statutes hereby repealed. The special tax so levied shall be collected by the tax collector of the county at the same time and in the same manner as other taxes are collected, and the proceeds thereof shall be paid to the school district and shall be used exclusively for the payment of principal of and interest upon such negotiable notes or certificates of indebtedness.

SOURCES: Codes, 1942, § 6533-05; Laws, 1953, Ex Sess, ch. 30, § 5; Laws, 1986, ch. 429, § 1; Laws, 1986, ch. 492, § 186; Laws, 2014, ch. 537, § 5, eff from and after passage (approved Apr. 24, 2014.)

Amendment Notes — The 2014 amendment inserted "except as provided in Section 37-7-104.3(7)" in the first and third sentences; and added "including any notes issued under the direction of a conservator of a school district pursuant to the authority of Section 37-7-104.3(7)" at the end of the first sentence.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 309, 311, 312, 316.

CJS. 78A C.J.S., Schools and School Districts § 787.

§ 37-59-109. Procedure for issuance of bonds where district lies in two or more counties; levy of special tax.

If the school district on whose behalf money is to be borrowed under the provisions of this article shall lie in two (2) or more counties, said school board shall take all steps required by this article in the issuance of the negotiable notes or certificates of indebtedness of the district without regard to county lines. The negotiable notes or certificates of indebtedness shall be general obligations of the entire school district without regard to county lines and shall constitute a lien upon all of the taxable property thereof.

The board of supervisors of the county which furnishes the largest assessed valuation of the property in the district shall annually certify to the board of supervisors of each county in which the district is located the amount of the annual tax levy required for the payment of the principal of and interest upon said notes or certificates of indebtedness, and each such board of supervisors shall annually levy such tax at the same time and in the same manner as other taxes are levied by such board in the amount so fixed. The taxes so levied shall be collected by the tax collector of each county in the same manner as other taxes are collected and shall be remitted to the school district depository. Such school district depository shall deposit said funds to the credit of the special fund provided for in Section 37-59-107 for the payment of the principal of and interest upon such notes or certificates of indebtedness.

SOURCES: Codes, 1942, § 6533-07; Laws, 1953, Ex Sess, ch. 30, § 7; Laws, 1986, ch. 492, § 187; brought forward, Laws, 1987, ch. 307, § 42, eff from and after passage (approved March 3, 1987).

§ 37-59-111. Execution of negotiable notes or certificates of indebtedness; interest; maturity.

All indebtedness incurred under the provisions of this article shall be evidenced by the negotiable notes or certificates of indebtedness of the school district on whose behalf the money is borrowed. Said notes or certificates of indebtedness shall be signed by the president of the school board and superintendent of schools of such school district. Such notes or certificates of indebtedness shall not bear a greater overall maximum interest rate to maturity than the rates now or hereafter authorized under the provisions of Section 19-9-19. No such notes or certificates of indebtedness shall be issued and sold for less than par and accrued interest. All such notes or certificates of indebtedness shall mature according to the following:

(a) All notes or certificates of indebtedness issued for purposes authorized under Section 37-59-101, with the exception of the financing of school buses and transportation equipment, shall mature in approximately equal installments of principal and interest over a period not to exceed twenty (20) years from the date of issuance thereof. Provided, however, that if negotiable notes used to finance other such capital improvements are outstanding from not more than one (1) previous issue authorized under the provisions of this article, then the schedule of payments for a new or supplementary issue may be so adjusted that the schedule of maturities of all notes or series of notes hereunder shall, when combined, mature in approximately equal installments of principal and interest over a period of twenty (20) years from the date of the new or supplementary issue, or if a lower interest rate will be secured on notes previously issued and outstanding, a portion of the proceeds of any issue authorized hereunder may be used to refund the balance of the indebtedness previously issued under the authority of this article.

(b) All notes or certificates of indebtedness for purposes of financing of school buses and transportation equipment shall mature in approximately equal installments of principal and interest over a period not to exceed ten (10) years from the date of issuance thereof. Provided, however, that if negotiable notes used to finance such noncapital improvements are outstanding from not more than one (1) previous issue authorized under the provisions of this article, then the schedule of payments for a new or supplementary issue may be so adjusted that the schedule of maturities of all notes or series of notes hereunder shall, when combined, mature in approximately equal installments of principal and interest over a period of ten (10) years from the date of the new or supplementary issue, or if a lower interest rate will thereby be secured on notes previously issued and outstanding, a portion of the proceeds of any issue authorized hereunder may be used to refund the balance of the indebtedness previously issued under the authority of this article.

Such notes or certificates of indebtedness shall be issued in such form and in such denominations as may be determined by the school board, and same may be made payable at the office of any bank or trust company selected by the school board, and, in such case, funds for the payment of principal and interest due thereon shall be provided in the same manner provided by law for the payment of the principal and interest due on bonds issued by the taxing districts of this state.

Any school district in Mississippi may borrow money from the United States Department of Agriculture Rural Development agency under any provision of state or federal law that provides for the borrowing of money by school districts.

SOURCES: Codes, 1942, § 6533-04; Laws, 1953, Ex Sess, ch. 30, § 4; Laws, 1968, ch. 410, § 1; Laws, 1970, ch. 384, § 1; Laws, 1973, ch. 428, § 1; Laws, 1986, ch. 429, § 2; Laws, 1986, ch. 492, § 188; Laws, 1987, ch. 307, § 43; Laws, 2000, ch.

539, § 1; Laws, 2005, 5th Ex Sess, ch. 23, § 3, eff from and after passage (approved Oct. 24, 2005.)

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 155, 185.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:72 et seq. (bonds and coupons).

CJS. 78A C.J.S., Schools and School Districts § 784.

§ 37-59-113. Disposition of proceeds of notes or certificates; disposition of balance of proceeds.

The proceeds of any negotiable notes or certificates of indebtedness issued under the provisions of this article shall be placed in a special fund and shall be expended only for the purpose or purposes for which they were issued as shown by the resolution authorizing the issuance thereof. If a balance shall remain of the proceeds of such notes or certificates of indebtedness after the purpose or purposes for which same were issued shall be accomplished, such balance shall forthwith be transferred to the special fund set up for the payment thereof in Section 37-59-107.

SOURCES: Codes, 1942, § 6533-06; Laws, 1953, Ex Sess, ch. 30, § 6, eff from and after July 1, 1954.

§ 37-59-115. Limitation of indebtedness.

The indebtedness incurred under the authority of this article shall not be included in computing the statutory limitation upon the indebtedness which may be incurred by school districts as provided in Article 1 of this chapter, or any other statute, but shall be in addition thereto. The only limitation upon the amount of indebtedness which may be incurred under the provisions of this article shall be that provided in Section 37-59-107.

SOURCES: Codes, 1942, § 6533-08; Laws, 1953, Ex Sess, ch. 30, § 8, eff from and after July 1, 1954.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 56.

CJS. 78A C.J.S., Schools and School Districts §§ 759, 760.

ARTICLE 5.

ISSUANCE OF NOTES AND CERTIFICATES ON INDEBTEDNESS IN CERTAIN MUNICIPAL SEPARATE SCHOOL DISTRICTS

[REPEALED].

§§ 37-59-201 through 37-59-213. Repealed.

Repealed by Laws, 1986, ch. 492, § 189, eff from and after July 1, 1987. [Codes, 1942, §§ 6533-21-6533-28; Laws, 1966, Ex Sess, ch. 44, §§ 1-8]

Editor's Note — Former § 37-59-201 specified the purposes for which money could be borrowed.

Former § 37-59-203 required the adoption of a resolution of necessity by the board of trustees of a school district.

Former § 37-59-205 required a declaration of intention by municipal governing authorities, and provided for an election on the issue, and the issuance of indebtedness.

Former § 37-59-207 provided for an annual levy of a special tax.

Former § 37-59-209 provided for the execution of negotiable notes or certificates of indebtedness, interest thereon and the maturity thereof.

Former § 37-59-211 required that the proceed of notes be placed in a special fund, and provided for the disposition of any excess.

Former § 37-59-213 specified that the homestead exemption laws were inapplicable to the tax levy.

ARTICLE 7.

REDUCED OR INTEREST-FREE DEBT.

SEC.
37-59-301. Authority of school districts to secure interest-free treatment of debt under federal law; construction of section.

§ 37-59-301. Authority of school districts to secure interest-free treatment of debt under federal law; construction of section.

Notwithstanding any law or any provision of any law to the contrary, the following additional and supplemental powers and authorizations are hereby granted to each public school district in connection with the issuance of any debt, as defined herein.

(a) For purposes of this section, "debt" means any note, bond, lease or other evidence of indebtedness that a district is authorized to issue under any provision of law, and shall include debt issued by or on behalf of an agricultural high school.

(b) Any school district issuing debt may, by resolution of its board of trustees or board of education, do all things regarding the form, payment structure, purchase price and terms of such debt which may be helpful in qualifying the debt for reduced or interest free treatment under any federal law or the regulations promulgated thereunder and to assure that such debt will be readily acceptable in the municipal bond market, provided the same is not inconsistent with the Constitution of the state. Provided, however, that nothing in this section shall be construed as allowing a school district to exceed the final maturity term or exceed any debt limitation provided in the applicable state law authorizing the debt.

(c) This section shall be construed to be supplemental and additional to any powers conferred by other laws on school districts and not in derogation of any such powers not existing. The section is remedial in nature and shall be liberally construed. Provided, however, that this section shall not grant any extra authority to a school board to issue debt in any amount exceeding statutory limitations on assessed value of taxable property within such school district or the statutory limitations on debt maturities, and shall not grant any extra authority to impose, levy or collect a tax which is not otherwise expressly provided for.

SOURCES: Laws, 2000, ch. 526, § 1; Laws, 2004, ch. 485, § 2, eff from and after July 1, 2004.

Editor's Note — Laws of 2000, ch. 526, § 2 provides as follows:

"SECTION 2. Section 1 of this act shall be codified as a separate code section in Chapter 59, Title 37, Mississippi Code of 1972."

CHAPTER 61

Expenditure of School Funds; Budgets

Sec.

37-61-1. "Fiscal year" and "scholastic year" defined.
37-61-3. Use of school funds; generally.
37-61-5. Disposition of balances of minimum education program funds.
37-61-7. Disposition of balances of school district funds.
37-61-8. Preparation and submission of plan to reduce costs in school district required under certain circumstances [Repealed effective July 1, 2015].
37-61-9. Preparation of budget by county superintendent of education; reduction of amount budgeted for administration expenditures.
37-61-11 through 37-61-15. Repealed.
37-61-17. Furnishing of forms for budgets.
37-61-19. Expenditures shall be limited to budgeted amounts; personal liability for excess.
37-61-21. Revision of budget.
37-61-23. Superintendents' books of accounts.
37-61-25. Repealed.
37-61-27. Penalty for failure to effect publication.
37-61-29. Audit of school funds.
37-61-31. Chickasaw school fund.
37-61-33. Education Enhancement Fund; appropriations from fund; certain funds from working cash-stabilization reserve fund transferred to education enhancement fund; school district procurement cards.
37-61-35. School Ad Valorem Tax Reduction Fund.
37-61-37. Mississippi Public Education Support Fund.

§ 37-61-1. "Fiscal year" and "scholastic year" defined.

The "fiscal year" of all school districts of this state shall commence on July 1 and end on June 30 of each year. The "scholastic year" of the public schools of this state shall likewise commence on July 1 and end on June 30 of each year.

SOURCES: Codes, 1942, § 6534-01; Laws, 1953, Ex Sess, ch. 27, § 1; Laws, 1986, ch. 492, § 190, eff from and after July 1, 1987.

§ 37-61-3. Use of school funds; generally.

The adequate education program allotments of the public school districts and the funds derived from the supplemental school district tax levies authorized by law shall be used exclusively for the support, maintenance and operation of the schools in the manner provided by law for the fiscal years for which such funds were appropriated, collected or otherwise made available, and no part of said funds or allotments shall be used in paying any expenses incurred during any preceding fiscal year. However, this shall not be construed to prohibit the payment of expenses incurred during the fiscal year after the close of such fiscal year from amounts remaining on hand at the end of such fiscal year, provided that such expenses were properly payable from such amounts. Moreover, this shall not be construed to prohibit the payment of the salaries of superintendents, principals and teachers and other school employees whose salaries are payable in twelve (12) monthly installments after the close of the fiscal year from amounts on hand for such purpose at the end of the fiscal year.

SOURCES: Codes, 1942, § 6534-02; Laws, 1953, Ex Sess, ch. 27, § 2; Laws, 1986, ch. 492, § 191; Laws, 1991, ch. 534, § 11; Laws, 1991, ch. 555 § 1; Laws, 2004, ch. 357, § 14, eff from and after July 1, 2004.

Editor's Note — Laws of 1990, Chapter 589, § 22, amended this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 589. Funds, however, were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi the amendatory provisions have not been printed in this volume. Text of the amendment can be found in the Advance Sheet Acts of the 1990 Legislative Session published by the Secretary of State's Office, Jackson, Mississippi.

ATTORNEY GENERAL OPINIONS

A deferred payment does not contemplate an employee intentionally delaying the return or execution of a contract in order to receive a benefit, such as, to avoid a tax levy. If a school board did enter in to such a scheme, it could be considered collusion in order to help an employee avoid tax liability. Matthews, March 8, 1996, A.G. Op. #96-0067.

RESEARCH REFERENCES

ALR. Procedural issues concerning public school funding cases. 115 A.L.R.5th 563.

Am Jur. 67B Am. Jur. 2d, Schools §§ 116 et seq.

CJS. 78 C.J.S., Schools and School Districts §§ 9 et seq.

§ 37-61-5. Disposition of balances of minimum education program funds.

If in any year there should remain a balance in the minimum education program fund of any school district on June 30 which amount is not to be used or is not needed in the payment of expenses for the preceding fiscal year properly payable out of such minimum education program fund, then such balance on hand to the credit of such minimum education fund of the school district shall be carried forward as a part of such minimum education program fund for the next succeeding fiscal year. The proper pro rata part of the amount so carried forward, to be determined by the percentage which the state minimum education program funds paid into such fund during the year bore to the entire amount paid into such fund, shall be charged against and deducted from the amount which the school district is allotted from state minimum education program fund for the succeeding fiscal year, in a manner prescribed by the State Auditor. The remainder of the amount so carried forward may be deducted from the amount which the school district is required to produce as its local minimum ad valorem tax effort for the support of the minimum education program fund for the succeeding fiscal year under the provisions of Chapter 19 of this title. However, no balance of transportation funds on hand at the end of any fiscal year shall be charged against or deducted from the allotment of state funds to any school district for minimum education program purposes for the next succeeding year.

SOURCES: Codes, 1942, § 6534-03; Laws, 1953, Ex Sess, ch. 27, § 3; Laws, 1986, ch. 492, § 192, eff from and after July 1, 1987.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

ATTORNEY GENERAL OPINIONS

There is no authority for the establishment of a trust fund from ad valorem tax receipts. Pate, January 15, 1999, A.G. Op. #98-0775.

§ 37-61-7. Disposition of balances of school district funds.

If at the end of any fiscal year there should remain a balance in the school district fund of any school district which is not needed and is not to be used for paying the expenses properly payable out of such district fund for the preceding fiscal year, such balance shall be carried forward as a part of the school district fund for the next fiscal year and used and expended in the manner otherwise provided by law. Nothing in this section shall be construed as applying to balances remaining in the minimum education program fund of a school district, and balances remaining in such funds shall be governed by Section 37-61-5.

SOURCES: Codes, 1942, § 6534-04; Laws, 1953, Ex Sess, ch. 27, § 4; Laws, 1986, ch. 492, § 193, eff from and after July 1, 1987.

ATTORNEY GENERAL OPINIONS

There is no authority for the establishment of a trust fund from ad valorem tax receipts. Pate, January 15, 1999, A.G. Op. #98-0775.

§ 37-61-8. Preparation and submission of plan to reduce costs in school district required under certain circumstances [Repealed effective July 1, 2015].

(1) Whenever a school district has an ending fund balance in the maintenance fund of the school district which is an amount equal to less than seven

percent (7%) of the total revenue deposited into the district maintenance fund during that fiscal year, the school board of the school district shall prepare and file with the State Department of Education a plan under which the district intends to reduce costs in the district. The plan must be submitted by the school board to the department contemporaneously with the budgetary information required under Section 37-61-9(2).

(2) The State Board of Education may adopt rules and regulations prescribing the specific contents required to be included in a plan submitted by a local school board to the department under subsection (1) of this section. The rules and regulations may include provisions addressing the following matters:

(a) A description of the financial data or documents and budgetary information that a district must submit to the department;

(b) A description of the manner by which the school district intends to achieve costs savings, demonstrated by actual reductions in budgeted expenditures;

(c) A requirement that before a school board makes expenditure cuts by reductions in the number of instructional employees or by reducing any discretionary supplemental amounts paid to instructional personnel, significant cost savings must be demonstrated by reducing the number of noninstructional personnel or the amounts paid to those employees, or both; and

(d) Any other information deemed necessary by the State Board of Education.

(3) After analyzing a plan that has been filed with the department under subsection (1), the department shall either approve the plan as submitted by the school board or alternatively, withhold approval and return the plan to the district with guidance or instructions, which may require resubmission of the plan by the school board for further review after changes have been made to the plan.

(4) This section shall stand repealed on July 1, 2015.

SOURCES: Laws, 2010, ch. 486, § 1; Laws, 2012, ch. 345, § 1, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment deleted "During the 2010, 2011 and 2012 fiscal years" from the beginning of (1); and extended the repealer provision in (4), from "July 1, 2012" to "July 1, 2015."

§ 37-61-9. Preparation of budget by county superintendent of education; reduction of amount budgeted for administration expenditures.

(1) On or before the fifteenth day of August of each year, the local school board of each school district, with the assistance of the superintendent of schools, shall prepare and file with the levying authority for the school district, as defined in Section 37-57-1, at least two (2) copies of a budget of estimated

expenditures for the support, maintenance and operation of the public schools of the school district for the fiscal year commencing on July 1 of such year. Such budget shall be prepared on forms prescribed and provided by the State Auditor and shall contain such information as the State Auditor may require.

(2) In addition, on or before the fifteenth day of August of each year, the local school board of each school district, with the assistance of the superintendent of schools, shall prepare and file with the State Department of Education such budgetary information as the State Board of Education may require. The State Board of Education shall prescribe and provide forms to each school district for this purpose.

(3) Prior to the adoption of a budget pursuant to this section, the school board of each school district shall hold at least one (1) public hearing to provide the general public with an opportunity to comment on the taxing and spending plan incorporated in the proposed budget. The public hearing shall be held at least one (1) week prior to the adoption of the budget with advance notice. After final adoption of the budget, a synopsis of such budget in a form prescribed by the State Department of Audit shall be published in a newspaper having general circulation in the school district on a date different from the date on which the county or any municipality therein may publish its budget.

(4) There shall be imposed limitations on budgeted expenditures for certain administration costs, as defined hereinafter, in an amount not greater than One Hundred Fifty Thousand Dollars ($150,000.00) plus four percent (4%) of the expenditures of all school districts each year. For purposes of this subsection, "administration costs" shall be defined as expenditures for salaries and fringe benefits paid for central administration costs from all sources of revenue in the following expenditure functions as defined in the MISSISSIPPI PUBLIC SCHOOL DISTRICT FINANCIAL ACCOUNTING MANUAL:

2300 = Support Services — General Administration
    2310 = Board of Education Services
    2320 = Executive Administration Services
    2330 = Special Area Administration Services
    2500 = Business Services
    2510 = Fiscal Services
    2520 = Purchasing Services
    2530 = Warehousing and Distributing Services
    2540 = Printing, Publishing and Duplicating Services
    2590 = Other Support Services — Business

Any costs classified as "administration costs" for purposes of this subsection which can be demonstrated by the local school district to be an expenditure that results in a net cost savings to the district that may otherwise require budget expenditures for functions not covered under the definition of administration costs herein may be excluded from the limitations imposed herein. The local school board shall make a specific finding of such costs and spread such finding upon its minutes, which shall be subject to the approval of the Office of Educational Accountability of the State Department of Education. Any school district required to make expenditure cuts, as a result of application of this subsection, shall not be required to reduce such expenditures more than twenty-five percent (25%) in any year in order to comply with this mandate.

The State Auditor shall ensure that functions in all expenditure categories to which this administrative limitation applies shall be properly classified.

This section shall not apply to central administration with five (5) or less full-time employees, or to those school districts which can substantiate that comparable reductions have occurred in administrative costs for the five-year period immediately prior to school year 1993-1994. In the event the application of this section may jeopardize the fiscal integrity or operations of the school district, have an adverse impact on the ability of the district to deliver educational services, or otherwise restrict the district from achieving or maintaining a quality education program, the State Board of Education shall be authorized to exempt the application of this section to such school district pursuant to rules and regulations of the State Board of Education consistent with the intent of this section.

SOURCES: Codes, 1942, § 6534-07; Laws, 1953, Ex Sess, ch. 27, § 7; Laws, 1975, ch. 454; Laws, 1986, ch. 492, § 194; Laws, 1987, ch. 307, § 45; Laws, 1992, ch. 419, § 15; Laws, 1994, ch. 581, § 5; Laws, 2000, ch. 481, § 1; Laws, 2004, ch. 357, § 15; Laws, 2006, ch. 550, § 3, eff from and after July 1, 2006.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Laws of 1990, Chapter 589, § 44, amended this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 589. Funds, however, were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi the amendatory provisions have not been printed in this volume. Text of the amendment can be found in the Advance Sheet Acts of the 1990 Legislative Session published by the Secretary of State's Office, Jackson, Mississippi.

ATTORNEY GENERAL OPINIONS

There is no provision that would authorize a school district to submit its budget to the levying authority after August 15. Patch, Aug. 13, 2004, A.G. Op. 04-0419.

§§ 37-61-11 through 37-61-15. Repealed.

Repealed by Laws, 1986, ch. 492, § 195, eff from and after July 1, 1987. [Codes, 1942, §§ 6534-09-6534-10; Laws, 1953, Ex Sess, ch. 27, §§ 8-10]

Editor's Note — Former sections 37-61-11 through 37-61-15 required the preparation of budgets of estimated expenditures and revenues by the board of trustees of school districts and municipal separate school districts, and required the state superintendent of public education to approve those budgets, respectively.

§ 37-61-17. Furnishing of forms for budgets.

It shall be the duty of the State Auditor to prescribe the forms for the budgets provided for in this chapter. It shall be the duty of such superintendents of schools and school boards to use such forms in preparing said budgets. No distribution of school funds shall be made to any school district until the budgets required by this chapter shall be filed.

SOURCES: Codes, 1942, § 6534-12; Laws, 1953, Ex Sess, ch. 27, § 12; Laws, 1986, ch. 492, § 196; Laws, 2004, ch. 357, § 16, eff from and after July 1, 2004.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

§ 37-61-19. Expenditures shall be limited to budgeted amounts; personal liability for excess.

It shall be the duty of the superintendents of schools and the school boards of all school districts to limit the expenditure of school funds during the fiscal year to the resources available. It shall be unlawful for any school district to budget expenditures from a fund in excess of the resources available within that fund. Furthermore, it shall be unlawful for any contract to be entered into or any obligation incurred or expenditure made in excess of the resources available for such fiscal year. Any member of the school board, superintendent of schools, or other school official, who shall knowingly enter into any contract, incur any obligation, or make any expenditure in excess of the amount available for the fiscal year shall be personally liable for the amount of such excess. However, no school board member, superintendent or other school official shall be personally liable (a) in the event of any reduction in adequate education program payments by action of the Governor acting through the Department of Finance and Administration, or (b) for claims, damages, awards or judgments, on account of any wrongful or tortious act or omission or breach of implied term or condition of any warranty or contract; provided, however, that the foregoing immunity provisions shall not be a defense in cases of fraud, criminal action or an intentional breach of fiduciary obligations imposed by statute.

SOURCES: Codes, 1942, § 6534-11; Laws, 1953, Ex Sess, ch. 27, § 11; Laws, 1986, ch. 492, § 197; Laws, 1991, ch. 534, § 12; Laws, 1991, ch. 555 § 3; Laws, 1993, ch. 562, § 8; Laws, 2003, ch. 546, § 4; Laws, 2004, ch. 357, § 17, eff from and after July 1, 2004.

ATTORNEY GENERAL OPINIONS

Under Section 37-61-19 both the school board and the superintendent may be personally liable for excess expenditure above the budgeted amount. Hand, February 1, 1995, A.G. Op. #95-0008.

RESEARCH REFERENCES

Am Jur. 24 Am. Jur. Proof of Facts 3d 1, Action by Crime Victim Against School Arising out of Assault or Criminal Act.

§ 37-61-21. Revision of budget.

(1) If it should appear to the superintendent of schools or the school board of any school district that the amounts to be received from state appropriations, taxation or any other source will be more than the amount estimated in the budget filed and approved, or if it should appear that such amounts shall be less than the amount estimated, the school board of the school district, with assistance from the superintendent, may revise the budget at any time during the fiscal year by increasing or decreasing the fund budget, in proportion to the increase or decrease in the estimated amounts. If it should appear to the superintendent of schools or the school board of a school district that some function of the budget as filed is in excess of the requirement of that function and that the entire amount budgeted for such function will not be needed for expenditures therefor during the fiscal year, the school board of the school district, with assistance from the superintendent, may transfer resources to and from functions and funds within the budget when and where needed; however, no such transfer shall be made from fund to fund or from function to function which will result in the expenditure of any money for any purpose different from that for which the money was appropriated, allotted, collected or otherwise made available or for a purpose which is not authorized by law. No revision of any budget under the provisions hereof shall be made which will permit a fund expenditure in excess of the resources available for such purpose. The revised portions of the budgets shall be incorporated in the minutes of the school board by spreading them on the minutes or by attaching them as an addendum. Final budget revisions, pertinent to a fiscal year, shall be approved on or before the date set by the State Board of Education for the school district to submit its financial information for that fiscal year.

(2) On or before the fifteenth day of October of each year, the local school board of each school district, with the assistance of the school district superintendent, shall prepare and file with the State Department of Education year-end financial statements and any other budgetary information that the State Board of Education may require. The State Board of Education shall prescribe and provide forms to each school district for this purpose. No additional changes may be made to the financial statements after October 15 of each year.

SOURCES: Codes, 1942, § 6534-13; Laws, 1953, Ex Sess, ch. 27, § 13; Laws, 1986, ch. 492, § 198; Laws, 1991, ch. 534, § 13; Laws, 2003, ch. 546, § 5; Laws, 2004, ch. 357, § 18; Laws, 2006, ch. 550, § 4, eff from and after July 1, 2006.

ATTORNEY GENERAL OPINIONS

Revision of the budget is controlled by Section 37-61-21 in which either the superintendent or the school board has the authority to revise the budget in case the amounts to be received are in excess of or less than the amount estimated in the budget. Hand, February 1, 1995, A.G. Op. #95-0008.

§ 37-61-23. Superintendents' books of accounts.

The superintendent of schools of each school district shall open and keep regular sets of books, as prescribed by the State Department of Education, which shall be subject to inspection during office hours by any citizen so desiring to inspect the same. The books for each fiscal year shall be kept separately and same shall be safely preserved by the superintendent of schools.

SOURCES: Codes, 1942, § 6534-14; Laws, 1953, Ex Sess, ch. 27, § 14; Laws, 1986, ch. 492, § 199; Laws, 2004, ch. 357, § 19; Laws, 2006, ch. 550, § 6, eff from and after July 1, 2006.

§ 37-61-25. Repealed.

Repealed by Laws, 1986, ch. 492, § 195, eff from and after July 1, 1987.

[Codes, 1942, § 6274-21; Laws, 1962, ch. 340, §§ 1-3; Laws, 1966, ch. 408, § 1]

Editor's Note — Former Section 37-61-25 required school officials to publish a report of disbursements or expenditures of school funds.

§ 37-61-27. Penalty for failure to effect publication.

If any member of the school board or the superintendent of schools disbursing and handling school funds shall fail, refuse or neglect to comply with the provisions of Section 37-61-9, he shall, upon conviction, be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars ($500.00) for such failure, refusal or neglect for each offense. In addition thereto, he shall be liable to a penalty of Five Hundred Dollars ($500.00) recoverable on his official bond by suit filed by any county or district attorney or any interested citizen, upon his official bond.

SOURCES: Codes, 1942, § 6274-21; Laws, 1962, ch. 340, §§ 1-3; Laws, 1966, ch. 408, § 1; Laws, 1986, ch. 492, § 200; Laws, 1987, ch. 307, § 46; Laws, 2004, ch. 357, § 20, eff from and after July 1, 2004.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 37-61-29. Audit of school funds.

The state department of audit is hereby authorized and empowered to post-audit and investigate the financial affairs and all transactions involving the school funds of the county including the minimum education program fund and supplementary district school funds, and to make separate and special audits thereof, as now provided by Sections 7-7-201 through 7-7-215, Mississippi Code of 1972.

SOURCES: Codes, 1942, § 6534-17; Laws, 1953, Ex Sess, ch. 27, § 17, eff from and after July 1, 1954.

Cross References — Uniform system of accounts for school districts, see § 37-37-1.
Audits of school reports generally, see §§ 37-37-3 et seq.

§ 37-61-31. Chickasaw school fund.

The boards of supervisors of the various counties in Mississippi which are entitled to share in the distribution of the Chickasaw school funds, are hereby authorized and empowered to make settlement with any separate school district in said counties which has received more or less than its proportionate part of said funds, and the boards of supervisors may appropriate any money now on hand or that may be allotted to said counties in the future in the payment of any amount due to such separate school districts.

SOURCES: Codes, 1930, § 6741; 1942, § 6579; Laws, 1924, ch. 283; Laws, 1930, ch. 278.

Cross References — Rate of and distribution of interest on Chickasaw school fund, see Miss. Const Art. 8, § 212.
Secretary of State to have charge of Chickasaw school lands, see § 7-11-11.
Price at which Chickasaw school lands are to be sold, see § 29-1-63.

§ 37-61-33. Education Enhancement Fund; appropriations from fund; certain funds from working cash-stabilization reserve fund transferred to education enhancement fund; school district procurement cards.

(1) There is created within the State Treasury a special fund to be designated the "Education Enhancement Fund" into which shall be deposited all the revenues collected pursuant to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

(2) Of the amount deposited into the Education Enhancement Fund, Sixteen Million Dollars ($16,000,000.00) shall be appropriated each fiscal year to the State Department of Education to be distributed to all school districts. Such money shall be distributed to all school districts in the proportion that the average daily attendance of each school district bears to the average daily attendance of all school districts within the state for the following purposes:

(a) Purchasing, erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including gymnasiums, auditoriums, lunchrooms, vocational training buildings, libraries, teachers' homes, school barns, transportation vehicles (which shall include new and used transportation vehicles) and garages for transportation vehicles, and purchasing land therefor.

(b) Establishing and equipping school athletic fields and necessary facilities connected therewith, and purchasing land therefor.

(c) Providing necessary water, light, heating, air-conditioning and sewerage facilities for school buildings, and purchasing land therefor.

(d) As a pledge to pay all or a portion of the debt service on debt issued by the school district under Sections 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65, if such pledge is accomplished pursuant to a written contract or resolution approved and spread upon the minutes of an official meeting of the district's school board or board of supervisors. The annual grant to such district in any subsequent year during the term of the resolution or contract shall not be reduced below an amount equal to the district's grant amount for the year in which the contract or resolution was adopted. The intent of this provision is to allow school districts to irrevocably pledge a certain, constant stream of revenue as security for long-term obligations issued under the code sections enumerated in this paragraph or as otherwise allowed by law. It is the intent of the Legislature that the provisions of this paragraph shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards. Debt of a district secured by a pledge of sales tax revenue pursuant to this paragraph shall not be subject to any debt limitation contained in the foregoing enumerated code sections.

(3) The remainder of the money deposited into the Education Enhancement Fund shall be appropriated as follows:

(a) To the State Department of Education as follows:

(i) Sixteen and sixty-one one-hundredths percent (16.61%) to the cost of the adequate education program determined under Section 37-151-7; of the funds generated by the percentage set forth in this section for the support of the adequate education program, one and one hundred seventy-eight one-thousandths percent (1.178%) of the funds shall be appropriated to be used by the State Department of Education for the purchase of textbooks to be loaned under Sections 37-43-1 through 37-43-59 to approved nonpublic schools, as described in Section 37-43-1. The funds to be distributed to each nonpublic school shall be in the proportion that the average daily attendance of each nonpublic school bears to the total average daily attendance of all nonpublic schools;

(ii) Seven and ninety-seven one-hundredths percent (7.97%) to assist the funding of transportation operations and maintenance pursuant to Section 37-19-23; and

(iii) Nine and sixty-one one-hundredths percent (9.61%) for classroom supplies, instructional materials and equipment, including computers and computer software, to be distributed to all eligible teachers within the state through the use of procurement cards. Classroom supply funds shall not be expended for administrative purposes. On or before September 1 of each year, local school districts shall determine and submit to the State Department of Education the number of teachers eligible to receive an allocation for the current year. For purposes of this subparagraph, "teacher" means any employee of the school board of a school district who is required by law to obtain a teacher's license from the State Department of Education and who is assigned to an instructional area of work as defined by the department, but shall not include a federally funded teacher. It is the intent of the Legislature that all classroom teachers shall utilize these funds in a manner that addresses individual classroom needs and supports the overall goals of the school regarding supplies, instructional materials, equipment, computers or computer software under the provisions of this subparagraph, including the type, quantity and quality of such supplies, materials and equipment. Classroom supply funds allocated under this subparagraph shall supplement, not replace, other local and state funds available for the same purposes. The State Board of Education shall develop and promulgate rules and regulations for the administration of this subparagraph consistent with the above criteria, with particular emphasis on allowing the individual teachers to expend funds as they deem appropriate. Effective with the 2013-2014 school year, the local school board shall require each school to issue procurement cards provided by the Department of Finance and Administration under the provisions of Section 31-7-9(1)(c) for the use of teachers and necessary support personnel in making instructional supply fund expenditures under this section, consistent with the regulations of the Mississippi Department of Finance and Administration pursuant to Section 31-7-9. Such procurement cards shall be issued at the beginning of the school year and shall be issued in equal amounts per teacher determined by the total number of qualifying personnel and the current state appropriation for classroom supplies with the Education Enhancement Fund. Such cards will expire on a pre-determined date at the end of each school year. All unexpended amounts will be carried forward, combined with the following year's allocation of Education Enhancement Fund instructional supplies funds and reallocated for the following year;

(b) Twenty-two and nine one-hundredths percent (22.09%) to the Board of Trustees of State Institutions of Higher Learning for the purpose of supporting institutions of higher learning; and

(c) Fourteen and forty-one one-hundredths percent (14.41%) to the Mississippi Community College Board for the purpose of providing support to community and junior colleges.

(4) The amount remaining in the Education Enhancement Fund after funds are distributed as provided in subsections (2) and (3) of this section shall be disbursed as follows:

(a) Twenty-five Million Dollars ($25,000,000.00) shall be deposited into the Working Cash-Stabilization Reserve Fund created pursuant to Section 27-103-203(1), until the balance in such fund reaches the maximum balance of seven and one-half percent (7-½%) of the General Fund appropriations in the appropriate fiscal year. After the maximum balance in the Working Cash-Stabilization Reserve Fund is reached, such money shall remain in the Education Enhancement Fund to be appropriated in the manner provided for in paragraph (b) of this subsection.

(b) The remainder shall be appropriated for other educational needs.

(5) None of the funds appropriated pursuant to subsection (3)(a) of this section shall be used to reduce the state's General Fund appropriation for the categories listed in an amount below the following amounts:

(a) For subsection (3)(a)(ii) of this section, Thirty-six Million Seven Hundred Thousand Dollars ($36,700,000.00);

(b) For the aggregate of minimum program allotments in the 1997 fiscal year, formerly provided for in Chapter 19, Title 37, Mississippi Code of 1972, as amended, excluding those funds for transportation as provided for in paragraph (a) of this subsection.

SOURCES: Laws, 1992, ch. 419, § 9; Laws, 1993, ch. 612, § 1; Laws, 1993, ch. 509, § 1; Laws, 1995, ch, 450, § 1; Laws, 1997, ch. 557, § 1; Laws, 1997, ch. 612, § 25; Laws, 2000, ch. 617, § 3; Laws, 2001, ch. 518, § 1; Laws, 2002, ch. 551, § 7; Laws, 2003, ch. 411, § 1; Laws, 2004, ch. 595, § 24; Laws, 2006, ch. 504, § 4; reenacted without change, Laws, 2009, ch. 345, § 29; Laws, 2012, ch. 543, § 3; Laws, 2013, ch. 566, § 4; Laws, 2014, ch. 397, § 39; Laws, 2014, ch. 442, § 7, eff from and after passage (approved Mar. 26, 2014.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in paragraph (c) of subsection (3) in the first version. The words "Fourteen and forty-one hundredths percent" were changed to "Fourteen and forty-one one-hundredths percent". The Joint Committee ratified the correction at its May 20, 1998 meeting.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section, as amended by Laws of 2001, ch. 518, § 1. The reference in (4)(a) to "paragraph (b) of this section" was changed to "paragraph (b) of this subsection." The Joint Committee ratified the correction at its April 26, 2001 meeting.

Section 39 of Chapter 397, Laws of 2014, effective July 1, 2014 (approved March 19, 2014), amended this section. Section 7 of Chapter 442, Laws of 2014, effective from and after passage (approved March 26, 2014), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the July 24, 2014, meeting of the Committee.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in an internal reference at the end of the section by substituting "paragraph (a) of this subsection" for "subsection

(5)(a) in this section." The Joint Committee ratified the correction at its July 24, 2014, meeting.

Editor's Note — Section 1 of ch. 557, Laws of 1997, amended this section, effective July 1, 1997. Section 25 of ch. 612, Laws of 1997, effective July 1, 2002, also amended this section. The first version set out above reflects the language of Section 1 of ch. 557, Laws of 1997, and the second version reflects the language of Section 25 of ch. 612, Laws of 1997.

Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Laws of 2001, ch. 518, was House Bill No. 776, 2001 Regular Session, and originally passed both Houses of the Legislature on March 24, 2001. The Governor vetoed House Bill 776 on March 30, 2001. The veto was overridden by the State Senate and by the State House of Representatives on March 30, 2001.

Laws of 2006, ch. 504, § 1(1), codified as § 37-161-1(1), provides as follows:

"SECTION 1. (1) This act shall be known and may be referred to as the 'Mississippi Education Reform Act of 2006.'"

Former Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

Amendment Notes — The 2012 amendment added the last four sentences in (3)(a)(iii).

The 2013 amendment in the fourteenth sentence in (3)(a)(iii), substituted "2013-2014" for "2012-2013" and "may authorize" for "shall require."

The first 2014 amendment (ch. 397) substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in (3)(c).

The second 2014 amendment (ch. 442), in (3)(a)(iii), deleted the fifth, seventh and ninth through twelfth sentences, which read: "Two (2) or more teachers may agree to pool their classroom supply funds for the benefit of a school within the district," "This plan shall be submitted in writing to the school principal for approval," and "School districts need not fully expend the funds received under this subparagraph in the year in which they are received, but such funds may be carried forward for expenditure in any succeeding school year. Any individual teacher or group of teachers with an approved spending plan that has not been fully funded need not expend the funds allocated under this subparagraph in the year in which such funds are received. Such funds may be carried forward for expenditure in any subsequent school year in which the plan is fully funded. However, beginning July 1, 2006, any funds allocated under this subparagraph which are not reserved in an approved spending plan but remain unspent on March 31 of the fiscal year in which the funds were allotted must be utilized by the school where the teacher is employed for instructional supply and equipment purposes" respectively; substituted "eligible teachers" for "school districts in the proportion that the average daily attendance of each school district bears to the average daily attendance of all school districts," "determine and submit to the State Department of Education the number of teachers eligible to receive an allocation for the current year" for 'allocate classroom supply funds equally among all classroom teachers in the school district," and "utilize these funds in a manner" for "be involved in the development of a spending plan"; and inserted "through the use of procurement cards" and "On or before September 1 of each year."

Cross References — Deposit of portion of sales tax revenue into Education Enhancement Fund created pursuant to this section, see § 27-65-75.

Mississippi Education Reform Act of 2006, see §§ 37-161-1 et seq.

ATTORNEY GENERAL OPINIONS

Education Enhancement Funds may be expended as cash in accordance with Section 37-61-33(2) subsections (a) (b) and (c) but not pledged against construction or repairs pursuant to subsection (d). Shepherd, Jan. 7, 1994, A.G. Op. #93-0985.

As long as a school board complies with established policies for classroom supplies, instructional materials and equipment, band instructors may purchase band uniforms and accessories from monies received under Section 37-61-33 (3)(a)(iii). Compton, Aug. 12, 2005, A.G. Op. 05-0384.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools § 127.

CJS. 78A C.J.S., Schools and School Districts § 789.

§ 37-61-35. School Ad Valorem Tax Reduction Fund.

There is hereby created a special fund in the State Treasury to be designated School Ad Valorem Tax Reduction Fund into which proceeds collected pursuant to Sections 27-65-75(7) and 27-67-31(a) shall be deposited. Beginning with the 1994 state fiscal year, the entire amount of monies in such special fund shall be appropriated annually to the State Department of Education which shall distribute the appropriated amount to the various school districts in the proportion that the average daily attendance of each school district bears to the average daily attendance of all school districts within the state. On or before June 1, 1993, and on or before June 1 of each succeeding year, the State Department of Education shall notify each school district of the amount to which such district is entitled pursuant to this section.

SOURCES: Laws, 1992, ch. 419, § 10; Laws, 2000, ch. 617, § 4, eff from and after July 1, 2000.

Editor's Note — Laws of 1992, ch. 419, was vetoed by the Governor on May 3, 1992. The veto was overridden by the State Senate and House of Representatives on May 4, 1992.

Laws of 1992, ch. 419, § 34, effective from and after July 1, 1992, provides as follows:

"SECTION 34. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income, sales and use tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income, sales and use tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Cross References — Deposit of portion of sales tax revenue into School Ad Valorem Tax Reduction Fund created pursuant to this section, see § 27-65-75.

Amounts received by school districts from the Ad Valorem Tax Reduction Fund are subject to the increase limitation under §§ 37-57-104 and 37-57-107, see § 37-57-104.

Inclusion of monies authorized to be received by school districts from School Ad Valorem Tax Reduction Fund pursuant to this section, as ad valorem tax receipts, and reduction of ad valorem tax levy, see § 37-57-105.

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools § 127.

CJS. 78A C.J.S., Schools and School Districts § 789.

§ 37-61-37. Mississippi Public Education Support Fund.

There is established in the State Treasury a fund known as the "Mississippi Public Education Support Fund" (hereinafter referred to as "fund"). The fund shall consist of monies required to be deposited therein under Section 27-19-56.34, and such other monies as the Legislature may authorize or direct to be deposited into the fund. Monies in the fund, upon appropriation by the Legislature, may be expended by the Mississippi Department of Education for classroom supplies, instructional materials and equipment, including computers and computer software, to be distributed to all school districts in the proportion that the average daily attendance of each school district bears to the average daily attendance of all school districts within the state. Unexpended amounts remaining in the fund at the end of the fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund.

SOURCES: Laws, 2002, ch. 559, § 4, eff from and after July 1, 2002.

Cross References — Special license tags or plates: Mississippi Public Education, see § 27-19-56.34.

CHAPTER 63

Educational Television

Sec.	
37-63-1.	Declaration of legislative purpose and public policy.
37-63-3.	Members of authority for educational television; terms.
37-63-5.	Officers of authority for educational television; meetings; compensation.
37-63-7.	Executive director and other employees.
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37-63-11.	Request and receipt of state funds; gifts and grants; contracts; special fund for expenses; costs of services.
37-63-13.	Authority's general powers as to educational television.
37-63-15.	Programming restriction.
37-63-17.	Authority for Educational Television to provide services to public agencies; cost of services; Capital Equipment Replacement Revolving Fund.

§ 37-63-1. Declaration of legislative purpose and public policy.

It is declared to be the legislative purpose of this chapter, and the public policy of the State of Mississippi, that there be established and developed in the public interest an educational television and radio system which shall provide educational and instructional, professional growth, and public service programs for the students and citizens of Mississippi, such system to be known as Mississippi Educational Television. The legislature therefore declares and determines that for these and other related purposes there is hereby established an agency of state government to be known as the Mississippi authority for educational television which shall have the responsibility for the administration, operation, control and supervision of educational television and radio in Mississippi.

SOURCES: Codes, 1942, § 8946-101; Laws, 1969, Ex Sess, ch. 31, § 1, eff from and after passage (approved September 30, 1969).

ATTORNEY GENERAL OPINIONS

It is clear, under Miss. Code Sections 37-63-1 et seq., that Mississippi Authority for Educational Television has responsibility for administration, operation, control and supervision of educational television and radio in Mississippi. Ray, Jan. 11, 1993, A.G. Op. #93-0854.

RESEARCH REFERENCES

ALR. Construction and application of Public Broadcasting Act of 1967 as amended (47 USCS §§ 396 et seq.) with respect to controlling content of public television programs. 44 A.L.R. Fed. 350.

§ 37-63-3. Members of authority for educational television; terms.

The Authority for Educational Television shall consist of the State Superintendent of Public Education, or his designee, and six (6) members appointed, with the advice and consent of the Senate. The Governor shall appoint four (4) members, one (1) of whom shall be actively engaged as a teacher or principal in a secondary school system in the State of Mississippi and one (1) of whom shall be actively engaged as a teacher or principal in an elementary school system in the State of Mississippi. Beginning July 1, 1994, the appointee actively engaged as a teacher or principal in a secondary school shall be appointed for an initial term of three (3) years. The member actively engaged as a teacher or principal in an elementary school shall be appointed for an initial term of four (4) years. The remaining two (2) gubernatorial appointees shall serve until July 1, 1996. Beginning July 1, 1996, the Governor shall appoint two (2) members for initial terms of three (3) and four (4) years, with the Governor specifically designating which member shall be appointed for three (3) years and which shall be appointed for four (4) years. The Mississippi Community College Board shall appoint one (1) member, and the Board of Trustees of State Institutions of Higher Learning shall appoint one (1) member. After the expiration of the initial terms, all members shall serve for terms of four (4) years. An appointment to fill a vacancy among the gubernatorial appointees, other than by expiration of a term of office, shall be made by the Governor for the balance of the unexpired term.

SOURCES: Codes, 1942, § 8946-102; Laws, 1969, Ex Sess, ch. 31, § 2; Laws, 1986, ch. 434, § 14 (became law on April 4, 1986, without Governor's signature); Laws, 1994, ch. 552, § 1; Laws, 2002, ch. 329, § 1; Laws, 2014, ch. 397, § 40, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment, in the third from the last sentence, substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges," and deleted "the" following "the Board of Trustees."

Cross References — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

§ 37-63-5. Officers of authority for educational television; meetings; compensation.

The Authority for Educational Television shall elect a chairman, vice chairman and such other officers it deems necessary. The authority shall adopt rules and regulations governing times and places for meetings, and governing the manner of conducting its business. Any member who does not attend three (3) consecutive regular meetings of the authority shall be subject to removal by a majority vote of the board members.

The authority shall meet at least bimonthly. Special meetings may be called by the chairman, vice chairman or the executive director. Four (4) members of the authority shall constitute a quorum.

Authority members who are not employed by the state shall receive per diem and actual and necessary expenses for attending meetings as provided by general law for public officers and employees. Elementary and secondary school teachers and/or elementary and secondary principals shall not be considered to be state employees for the purposes of this section.

SOURCES: Codes, 1942, § 8946-103; Laws, 1969, Ex Sess, ch. 31, § 3; Laws, 1980, ch. 560, § 14; Laws, 1994, ch. 552, § 2, eff from and after July 1, 1994.

Cross References — Provision authorizing uniform per diem compensation for officers and employees of state boards, commissions and agencies, see § 25-3-69.

§ 37-63-7. Executive director and other employees.

The authority for educational television shall employ an executive director who shall be the administrative officer of the authority and shall perform such duties as are required of him by law and such other duties as may be assigned him by the authority and who shall receive such compensation as may be fixed by the authority. In addition, the executive director shall be entitled to remuneration for his necessary traveling expenses consistent with general law.

The authority shall have the power and authority to employ such technical, professional and clerical personnel as may be necessary for the administration of this chapter and for the performance of such other duties as may be imposed upon the authority by law, and to define the duties and fix the compensation of such employees.

SOURCES: Codes, 1942, § 8946-104; Laws, 1969, Ex Sess, ch. 31, § 4, eff from and after passage (approved September 30, 1969).

§ 37-63-8. Extern training program.

The Authority shall have the authority, with the assistance and approval of the State Personnel Board, to implement extern training programs for its employees and contract with private sector businesses for such training. The training programs shall be available, at the discretion of the Authority and the Executive Director, to employees who have served with the agency for one (1) year or more. The salary of the employees may be paid by the Authority while the employee is receiving such training. No training shall be in excess of three (3) months and forty (40) hours per week. Any employee participating in such extern training program shall be required to remain employed with the Authority for a period of one (1) year following completion of the training period. Any person leaving the employment of the Authority prior to the completion of the required one (1) year period shall be liable for the salary and fringe benefits expended for the employee during the training period.

SOURCES: Laws, 1992, ch. 373, § 1, eff from and after July 1, 1992.

Cross References — State Personnel Board, see § 25-9-109.

§ 37-63-9. Acquisition and operation of facilities.

(1) The authority is authorized and empowered to lease, purchase, own, construct, operate, manage and be the licensee of educational television and radio stations, production centers, transmission sites and all related equipment and facilities for the production and/or transmission of broadcast, closed circuit, fixed services (ITFS-2500 megahertz), radio and any other means necessary to provide complete coverage of educational television and radio in the state. The authority is also authorized and empowered to lease, purchase, own and operate any type of vehicle necessary for use in transporting equipment, production crews and service personnel.

(2) The authority, and any other state agency or board licensed by the Federal Communications Commission to provide ITFS educational television, are authorized and empowered to provide access to video learning resources for all Mississippi public schools through the development of multi-channel interactive video systems (ITFS) for the public schools which shall be able to interact with other school districts in the state. In order to establish the ITFS system without expenditure of significant state funds, the authority, and any such other state agency or board licensee with the approval of the authority, are authorized and empowered to enter such contracts as may be necessary, including contracts with any private educational institution or private nonprofit educational organization in regard to the construction, purchase, lease or lease-purchase of facilities and equipment, employment of personnel, and the operation and management of said ITFS system for the purpose of providing ITFS educational television services to educational institutions and interested citizens in the state. The authority shall provide that all public schools are equipped to utilize the ITFS system by no later than July 1, 1998.

SOURCES: Codes, 1942, § 8946-105; Laws, 1969, Ex Sess, ch. 31, § 5; Laws, 1980, ch. 489; Laws, 1990, 1st Ex Sess, ch. 72, § 1; Laws, 1992, ch. 341, § 1, eff from and after July 1, 1992.

Editor's Note — Laws of 1990, ch. 589, § 44, amended this section effective July 1, 1990, provided that the Legislature by concurrent resolution adopted by the House and Senate in session prior to July 1, 1990, declared that sufficient funds were dedicated and made available for the implementation of Chapter 589. Funds, however, were not made available by the Legislature prior to July 1, 1990, and by direction of the Office of the Attorney General of the State of Mississippi, the amendatory provisions did not become operative. Text of the amendment can be found in the Advance Sheet Acts of the 1990 Legislative Session published by the Secretary of State's Office, Jackson, Mississippi.

Cross References — Contracts by Mississippi Authority for Educational Television with certain educational institutions or nonprofit organizations in regard to construction, purchase, lease or lease-purchase of facilities and equipment and the employment of personnel for providing multichannel interactive video systems in school districts in this state exempt from § 31-7-13 bidding requirements, see § 31-7-13.

ATTORNEY GENERAL OPINIONS

Mississippi EdNet Institute, Inc., is not "public body" governed by Open Meetings Law and Public Records Act, but EdNet is not prohibited from adopting standards imposed by these Acts for its operating procedures. Jaeger, Oct. 21, 1992, A.G. Op. #92-0765.

Specifically in regard to instructional television fixed services' educational television channel, Miss. Code Section 37-63-9 authorizes Mississippi Authority for Educational Television as to acquisition and operation of educational television matters. Ray, Jan. 11, 1993, A.G. Op. #93-0854.

Operation of multi-channel interactive video systems' (ITFS') educational television channels is proper governmental function as recognized by enabling statutes of respective boards and agency and Miss. Code Section 37-63-9(2); since this is true, then boards and agency operating these channels have authority to assign personnel to work with EdNet Institute of Mississippi, Inc.(EdNet) to enable EdNet to perform duties and tasks necessary to operate ITFS channels for state licensees. Ray, Jan. 11, 1993, A.G. Op. #93-0854.

§ 37-63-10. Conflicts of interest.

No individual who sits on any board or authority empowered to contract with the Educational Television Authority or to appoint members to the board which shall govern the use of the ITFS channels shall own or be interested in, directly or indirectly, any interest in any private organization doing business under the FCC license herein approved.

SOURCES: Laws, 1990, Ex Sess, ch. 72, § 3, eff from and after passage (approved June 30, 1990).

Joint Legislative Committee Note — The text of this section, which formerly appeared in an Editor's Note under Sections 37-63-9 and 37-63-13, was codified in 1998 as Section 37-63-10 in the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation.

§ 37-63-11. Request and receipt of state funds; gifts and grants; contracts; special fund for expenses; costs of services.

(1) The Authority for Educational Television is empowered to request and to receive such state funds for educational television construction and operation as may be appropriated or allocated to it, and to solicit and receive contributions, matching funds, gifts, bequests and devises from any source, whether federal, state, public or private. It may enter into agreements with federal, state, public or private agencies, departments, institutions, firms, corporations or persons for the production, transmission, sale, lease or purchase of educational television and educational radio programs, or any research and development projects, joint ventures pertaining to content or other projects that do not duplicate communication facilities or services utilized under contract by the state and that the authority determines are in its best interests. The authority may enter into any contracts and other agreements necessary for those purposes, and in doing so, the authority may

agree to terms of indemnification, the law of another state or jurisdiction or other necessary terms when, in the judgment of the authority, that would be in its best interests. The authority may delegate to its executive director its power to enter into these contracts or other agreements, or to exercise any of its other powers, in accordance with guidelines established by the authority. All materials produced or received by the authority in the exercise of its power, in the preceding provisions of this subsection, that are protected by copyright or considered confidential or proprietary information of third parties, shall not be public records. All such materials shall not be subject to release under the Public Records Act. The authority may also lease antenna space on television towers which it owns. Before the authority is empowered to contract for communication facilities to carry television signals, it shall obtain written authority to do so from the Department of Finance and Administration in order to ensure that there be no duplication of state communication facilities.

(2) There is hereby established in the State Treasury a special fund for the purpose of providing for the payment of all expenses in respect to the administration of this chapter. Such fund shall be administered by the authority. The State Treasurer shall be the custodian of such funds and all monies and securities in such fund shall be held in trust by such Treasurer and shall not be the money or property of the state. The State Treasurer is authorized to disburse monies from such fund only upon order of the authority. The official bond of the State Treasurer shall be conditioned for the faithful performance of his duty hereunder. The State Treasurer shall deposit any monies paid into such fund into such qualified depository banks as the authority may designate and is authorized to invest any portion of the fund which, in the opinion of the authority, is not needed for current requirements in the same manner and subject to all provisions of the law with respect to the deposit of state funds by such Treasurer. All interest earned by such portion of the fund as may be invested by the State Treasurer shall be collected by him and placed to the credit of such fund.

(3) The Authority for Educational Television is empowered to provide noncommercial production or reproduction services for other public agencies, and may collect the costs of providing the services from the public agency. These costs shall be deposited into the special fund.

SOURCES: Codes, 1942, § 8946-106; Laws, 1969, Ex Sess, ch. 31, § 6; Laws, 1984, ch. 488, § 200; Laws, 1990, ch. 430, § 1; Laws, 1990, ch. 462, § 1; Laws, 2003, ch. 395, § 1, eff from and after July 1, 2003.

Editor's Note — The Public Records Act, referred to in this section, is Laws of 1983, ch. 424, which appears as §§ 25-61-1 et seq. Section 341, ch. 488, Laws of, 1984, provides as follows:

"SECTION 341. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action which accrued prior to the date on which the applicable sections of this act become effective, whether such assessments, appeals, suits, claims or actions shall have been begun before the date on which the applicable sections of this act become effective or shall thereafter be begun."

JUDICIAL DECISIONS

1. In general.

Duties and responsibilities, including allowing authority for Educational Television to contract (§ 37-63-11), giving concurrence for the use of funds to travel outside the continental United States (§ 25-3-41), advertising for and accepting bids on equipment for the State Crime Laboratory (§ 63-11-47), granting authority for the purchase of motor vehicles by state departments, institutions, or agencies (§ 25-1-77), and approving dispersement of funds by the Mississippi Air and Water Pollution Commission (§ 49-17-13), are administrative functions within the prerogative of the executive department, and statutes vesting those powers and functions in members of the legislature violate Miss Const Art 1 § 2 and are unconstitutional. Alexander v. State ex rel. Allain, 441 So. 2d 1329 (Miss. 1983).

§ 37-63-13. Authority's general powers as to educational television.

The Authority for Educational Television is empowered and is hereby designated as the proper and official state agency to:

(1) Control and supervise the use of television broadcast and ITFS channels and radio frequencies reserved by the Federal Communications Commission for noncommercial, educational purposes in Mississippi. It is further empowered to authorize the sale or lease of any excess capacity of such ITFS channels for commercial use to provide the funds necessary to implement the purposes of Section 37-63-9(2). No pornographic material or political advertisements shall be allowed on any ITFS channel or radio frequency;

(2) Initiate or receive for review and approval all applications for educational television and educational radio licenses submitted to the Federal Communications Commission for or on behalf of any public school system, junior college, institution of higher learning, private educational institution, or nonprofit community or municipal educational organization;

(3) Initiate or receive for review and approval all applications for federal, state or private funds which involve the construction of educational television or radio facilities or acquisition of educational television or radio equipment;

(4) Prescribe official state-approved standards for appropriate educational television equipment which may be purchased by any public school, junior college, institution of higher learning, private educational institution, or nonprofit community or municipal educational organization in order to insure a standard of quality and technical compatibility throughout the state;

(5) Provide consultative services in all aspects of educational television and radio to any agency, public or private, within the state;

(6) Serve as a clearinghouse for information on television and radio for educational purposes;

(7) Perform all other things necessary to insure the orderly and coordinated development of educational television and radio in Mississippi; and

(8) Determine and approve all policies governing the programming, administration, control and supervision of Mississippi Educational Television and educational radio. All programs prepared for use in the elementary and secondary schools of this state must be prepared in conjunction with the Office of the State Superintendent of Public Education prior to broadcast on Mississippi Educational Television.

SOURCES: Codes, 1942, § 8946-107; Laws, 1969, Ex Sess, ch. 31, § 7; Laws, 1990, 1st Ex Sess, ch. 72, § 2; Laws, 2003, ch. 395, § 2, eff from and after July 1, 2003.

Cross References — Power of Authority to provide services to public agencies and charge fees for such services, see § 37-63-17.

Assistance by Mississippi Authority for Educational Television in making relevant information available to Cooperative Extension Service for information clearinghouse assisting farmers, see § 69-2-5.

ATTORNEY GENERAL OPINIONS

Authority for Mississippi Authority for Educational Television's supervisory and management role in connection with multi-channel interactive video systems' educational television channels can be found in statutory grant of general powers in Miss. Code Section 37-63-13(1,5-8). Ray, Jan. 11, 1993, A.G.Op #93-0854.

Pursuant to Miss. Code Section 7-5-25, Office of Attorney General may only render opinions on prospective actions, and not opinions as to validity or invalidity of anything that has taken place in past. Bush, Feb. 10, 1993, A.G. Op. #93-0053.

RESEARCH REFERENCES

ALR. State regulation of content of and representation on program presented by "public broadcasting" television or radio station. 27 A.L.R.4th 375.

§ 37-63-15. Programming restriction.

No SEICUS (or any of its subsidiaries or connections known by any other name whatsoever) programming whatsoever shall be carried by any educational television station in the State of Mississippi.

SOURCES: Codes, 1942, § 8946-108; Laws, 1969, Ex Sess, ch. 31, § 8, eff from and after passage (approved September 30, 1969).

§ 37-63-17. Authority for Educational Television to provide services to public agencies; cost of services; Capital Equipment Replacement Revolving Fund.

(1) The Mississippi Authority for Educational Television is empowered to provide noncommercial production or reproduction services for other public agencies and may collect the costs of providing the services from the public agency plus a separate equipment usage fee in an amount determined by the authority and based upon the equipment used. The costs shall be deposited to

the credit of the authority. The separate equipment usage fee shall be deposited in the Capital Equipment Replacement Revolving Fund.

(2) The Authority for Educational Television may establish a Capital Equipment Replacement Revolving Fund into which shall be deposited equipment usage fees collected under subsection (1) and funds from other sources designated for deposit in the Capital Equipment Replacement Revolving Fund. The authority may expend moneys from the Capital Equipment Replacement Revolving Fund subject to appropriation therefor by the Legislature to purchase technical equipment for operating the educational radio and television facilities.

SOURCES: Laws, 1990, ch. 423, § 1, eff from and after passage (approved March 15, 1990).

Cross References — Other powers of the Authority, see § 37-63-13.

CHAPTER 65

Closing of Public Schools and Institutions of Higher Learning

Article 1. Closing Pursuant to Governor's Proclamation 37-65-1
Article 3. Closing Pursuant to Board of Trustees' Order 37-65-101

Article 1.

Closing Pursuant to Governor's Proclamation.

Sec.

37-65-1. Conditions under which governor may close public schools or institutions of higher learning.
37-65-3. Governor's proclamation closing schools or institutions of higher learning.
37-65-5. Person entering upon closed school's premises without approval of governor is a trespasser; penalty.
37-65-7. Salaries of superintendents, teachers and other employees may be paid while schools are closed.
37-65-9. Students affected by closing of school may be transferred to other schools.
37-65-11. Teachers and other employees affected by closing of schools may be employed in other schools.
37-65-13. Routes and facilities may be changed to accommodate transportation of pupils during school closure.
37-65-15. Closing of schools shall not affect retirement benefits.
37-65-17. Period of closure shall not be deducted from time earned toward certification.
37-65-19. Elapsed time during closure shall not be deducted from time schools are required to be operated during scholastic year.
37-65-21. Construction of article.

§ 37-65-1. Conditions under which governor may close public schools or institutions of higher learning.

In addition to all other power and authority which may now be vested in the governor of the State of Mississippi by its constitution and statutes, or either, and any power or authority which may be vested in him by common law as governor as such, the governor of the State of Mississippi is hereby vested with the authority to close any one or more or all schools in any school, agricultural high school, or junior college district, or to close any institution of higher learning in the State of Mississippi when, in his discretion, he determines such closure to be to the best interest of a majority of the educable children of any public school district, or to the best interest of a majority of the children or persons eligible to attend any agricultural high school or agricultural high school and junior college district, or to the best interest of any institution of higher learning, or to the best interest of a majority of the persons or children enrolled in any such school or schools, or any agricultural high school or agricultural high school and junior college, or any institution of higher learning. The governor as such is also vested with such supplemental and additional authority to close any one or more or all of said public schools in any such school district, or agricultural high school district, or agricultural high school and junior college district when, in his discretion, he determines such closure will promote or preserve the public peace, order, or tranquility of such district or districts and as such governor he is also vested with the authority to close any one or more or all of said institutions of higher learning when, in his discretion, he determines such closure will promote or preserve the public peace, order, or tranquility in and of such institutions, or the community in which such may be situated or in or of the State of Mississippi.

SOURCES: Codes, 1942, § 6232-21; Laws, 1958, ch. 311, § 1, eff from and after passage (approved May 6, 1958).

Cross References — Powers of governor generally, see § 7-1-5.

§ 37-65-3. Governor's proclamation closing schools or institutions of higher learning.

The decision or determination to close any one or more of the schools, colleges or institutions of higher learning as provided in Section 37-65-1, shall be effectuated and evidenced by a proclamation of the governor of the State of Mississippi, which shall be effective upon his execution or issuance thereof, and such schools, colleges, or institutions of higher learning closed according to the provisions of this article shall remain so closed until said governor shall execute or issue a further proclamation opening same. The use by said governor of the power vested in him by the terms of this article may be exercised from time to time as, in his discretion, he may deem necessary for any or all of the purposes specified in Section 37-65-1 and any proclamation of closure need not specify the period of time during which such closure shall be effective.

SOURCES: Codes, 1942, § 6232-22; Laws, 1958, ch. 311, § 2, eff from and after passage (approved May 6, 1958).

§ 37-65-5. Person entering upon closed school's premises without approval of governor is a trespasser; penalty.

Upon the closure of any such school, college, or institution of higher learning, no person shall go or enter upon the premises thereof except with the permission or approval of said governor, and any other person going or entering upon said premises shall be a trespasser and guilty of a misdemeanor under the laws of the State of Mississippi. Upon conviction thereof, such person shall be fined not more than five hundred dollars ($500.00), or be imprisoned in the county jail for not more than thirty days, or be both so fined and imprisoned.

SOURCES: Codes, 1942, § 6232-23; Laws, 1958, ch. 311, § 3, eff from and after passage (approved May 6, 1958).

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 37-65-7. Salaries of superintendents, teachers and other employees may be paid while schools are closed.

The board of trustees of any such school district, agricultural high school district or agricultural high school and junior college district, and the board of trustees of state institutions of higher learning, respectively, as the case may be, may, in their discretion, pay all or any part of the salary of all superintendents, principals, teachers and other employees during or for the period when any of the said schools, agricultural high schools, agricultural high schools and junior colleges, or institutions of higher learning are closed in accordance with the terms of this article, and funds shall be drawn from the same source or sources as such funds would be drawn to pay such items if the schools, agricultural high schools, agricultural high schools and junior colleges, or institutions of higher learning had not been closed.

SOURCES: Codes, 1942, § 6232-25; Laws, 1958, ch. 311, § 5, eff from and after passage (approved May 6, 1958).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools § 187.

CJS. 78 C.J.S., Schools and School Districts § 453.

§ 37-65-9. Students affected by closing of school may be transferred to other schools.

Upon and during the closure in accordance with the provisions of this article of any school, the educable children or enrolled students affected thereby may be assigned or transferred, as the case may be, to another school or district, as the case may be, in accordance with the laws of this state.

SOURCES: Codes, 1942, § 6232-26; Laws, 1958, ch. 311, § 6, eff from and after passage (approved May 6, 1958).

§ 37-65-11. Teachers and other employees affected by closing of schools may be employed in other schools.

Upon or during any period of closure in accordance with the provisions of this article, any teacher or other employee affected thereby may be, by the board of trustees of such school district, college or institution of higher learning, placed in any other school within the district or any other junior college or institution of higher learning, as the case may be, or may be employed in such other school or junior college or institution of higher learning.

SOURCES: Codes, 1942, § 6232-26; Laws, 1958, ch. 311, § 6, eff from and after passage (approved May 6, 1958).

§ 37-65-13. Routes and facilities may be changed to accommodate transportation of pupils during school closure.

Upon or during any closure of any school in accordance with the provisions of this article, any and all transportation routes or transportation facilities may be changed or adjusted by the interested board or boards of trustees to accommodate the transportation of children who would be otherwise entitled to transportation had such closure not occurred.

SOURCES: Codes, 1942, § 6232-27; Laws, 1958, ch. 311, § 7, eff from and after passage (approved May 6, 1958).

Cross References — Schoolchildren entitled to transportation generally, see § 37-41-3.

§ 37-65-15. Closing of schools shall not affect retirement benefits.

Upon or during any closure of any school, junior college or institution of higher learning in accordance with the terms of this article, the retirement benefits under existing law of any teacher, superintendent, principal or other employee shall in no way be affected by the same or because of the period of time elapsing during which such school, junior college or institution of higher learning may be closed.

SOURCES: Codes, 1942, § 6232-28; Laws, 1958, ch. 311, § 8, eff from and after passage (approved May 6, 1958).

Cross References — Social security and state retirement and disability benefits generally, see §§ 25-11-3 et seq.

Teachers' retirement system generally, see §§ 25-11-201 et seq.

§ 37-65-17. Period of closure shall not be deducted from time earned toward certification.

Should any school, junior college or institution of higher learning be closed in accordance with the terms of this article, such period of closure shall not be subtracted from the period of time which would otherwise be earned by any superintendent, principal, teacher or other employee employed to render services in and about the conduct and operation of any such school, junior college or institution of higher learning, as to any certification to which such person might otherwise be entitled.

SOURCES: Codes, 1942, § 6232-28; Laws, 1958, ch. 311, § 8, eff from and after passage (approved May 6, 1958).

§ 37-65-19. Elapsed time during closure shall not be deducted from time schools are required to be operated during scholastic year.

The period of time which may elapse during any closure of any school, junior college or institution of higher learning in accordance with the terms of this article, shall not be deducted or counted as a deduction from any period of time which by any other law of this state such school, junior college or institution of higher learning is required to be operated in any scholastic year. The provision of any other law of this state setting a minimum time or number of days which any such school, junior college or institution of higher learning is required to be operated in any scholastic year shall not prevent the closure provided for in this article, and in the event of any conflict between the terms of this article and any such other law, the provisions of this article shall control.

SOURCES: Codes, 1942, § 6232-29; Laws, 1958, ch. 311, § 9, eff from and after passage (approved May 6, 1958).

§ 37-65-21. Construction of article.

The fact that the power and authority to close any one or more or all of the schools of any school district, or any agricultural high school, or any agricultural high school and junior college, or any institution of higher learning may be by some other law of the State of Mississippi vested in some other person or officer or board shall not cause this article and any other such law to be in conflict nor shall same be construed to be in conflict with each other, and the power and authority vested in each such board or boards of trustees or person or officer may be exercised by each or either, independent of the other such board or boards or person or persons or officer or officers.

SOURCES: Codes, 1942, § 6232-30; Laws, 1958, ch. 311, § 10, eff from and after passage (approved May 6, 1958).

ARTICLE 3.

CLOSING PURSUANT TO BOARD OF TRUSTEES' ORDER.

SEC.

37-65-101. Conditions under which board of trustees may close public schools.
37-65-103. Order closing schools.
37-65-105. Salaries of superintendents, teachers and other employees may be paid while schools are closed.
37-65-107. Students affected by closing of school may be transferred to other schools.
37-65-109. Teachers and other employees affected by closing of schools may be placed in other schools.
37-65-111. Routes and facilities may be changed to accommodate transportation of pupils during school closure.
37-65-113. Closing of schools shall not affect retirement benefits.

37-65-115.	Period of closure shall not be deducted from time earned toward certification.
37-65-117.	Elapsed time during closure not to be deducted from time schools are required to be operated during scholastic year.
37-65-119.	Duties incumbent upon board of trustees upon filing of petitions to reopen schools.
37-65-121.	Copies of petition shall be forwarded to state superintendent of public education.
37-65-123.	"Qualified elector" defined.
37-65-125.	Details of petitions.
37-65-127.	Board may act at regular or special meeting.
37-65-129.	Appeals.
37-65-131.	Construction of article.

§ 37-65-101. Conditions under which board of trustees may close public schools.

In addition to all other power and authority which may now be vested in any board of trustees of any school district by the constitution or statutes, or both, of the State of Mississippi, any such board of trustees is hereby vested with the authority to close any one or more or all schools in any school district when, in its discretion, it determines such closure to be to the best interest of a majority of the educable children of the territory served, or to the best interest of a majority of the children enrolled in any such school or schools. Said board of trustees is also vested with the authority, in its discretion, to close any one or more or all schools in any school district when such board, in its discretion, determines such closure will promote or preserve the public peace, order or tranquility of the district.

SOURCES: Codes, 1942, § 6232-41; Laws, 1960, ch. 316, § 1, eff from and after passage (approved April 27, 1960).

Cross References — Powers, authority, and duties of boards of trustees of school districts generally, see § 37-7-301.

§ 37-65-103. Order closing schools.

The decision or determination to close any one or more or all schools of the district shall be effectuated and evidenced by an order of such board of trustees directing the same, entered upon the minutes of such board, and the same shall be sufficient by an adjudication or determination therein of any one or more reasons authorizing such action as set out in Section 37-65-101, and it shall not be necessary to include in said order any fact or detail other than the said reason or reasons above mentioned.

Any one or more or all schools of the district which may be closed, as hereinabove provided for, shall remain closed until further order of said board of trustees made and entered upon its minutes opening such school or schools or all schools of the district.

SOURCES: Codes, 1942, §§ 6232-42, 6232-43; Laws, 1960, ch. 316, §§ 2, 3, eff from and after passage (approved April 27, 1960).

§ 37-65-105. Salaries of superintendents, teachers and other employees may be paid while schools are closed.

The board of trustees of any such school district may, in its discretion, pay all or any part of the salary of all superintendents, principals, teachers and other employees during or for the period when any of the said schools are closed in accordance with the terms of this article, and funds shall be drawn from the same source or sources as such funds would be drawn to pay such items if the school or schools had not been closed.

SOURCES: Codes, 1942, § 6232-48; Laws, 1960, ch. 316, § 8, eff from and after passage (approved April 27, 1960).

RESEARCH REFERENCES

Am Jur. 67B Am. Jur. 2d, Schools § 187.

CJS. 78 C.J.S., Schools and School Districts § 453.

§ 37-65-107. Students affected by closing of school may be transferred to other schools.

Upon and during the closure in accordance with the provisions of this article of any school, the educable children or enrolled students affected thereby may be assigned or transferred, as the case may be, to another school or district, as the case may be, in accordance with the laws of this state.

SOURCES: Codes, 1942, § 6232-49; Laws, 1960, ch. 316, § 9, eff from and after passage (approved April 27, 1960).

Cross References — Assignment of schoolchildren to schools or attendance centers generally, see §§ 37-15-13 et seq.

§ 37-65-109. Teachers and other employees affected by closing of schools may be placed in other schools.

Upon or during any period of closure in accordance with the provisions of this article, any teacher or other employee affected thereby may be, by the board of trustees of such school district, placed in any other school within the district, or in a school or schools of another convenient district.

SOURCES: Codes, 1942, § 6232-49; Laws, 1960, ch. 316, § 9, eff from and after passage (approved April 27, 1960).

§ 37-65-111. Routes and facilities may be changed to accommodate transportation of pupils during school closure.

Upon or during any closure of any school according to the provisions of this article, any and all transportation routes or transportation facilities may be changed or adjusted by the interested board or boards of trustees to accommodate the transportation of children who would be otherwise entitled to transportation had such closure not occurred.

SOURCES: Codes, 1942, § 6232-50; Laws, 1960, ch. 316, § 10, eff from and after passage (approved April 27, 1960).

Cross References — Schoolchildren entitled to transportation generally, see § 37-41-3.

§ 37-65-113. Closing of schools shall not affect retirement benefits.

Upon or during any closure of any school in accordance with the terms of this article, the retirement benefits under existing law of any teacher, superintendent, principal or other employee shall in no way be affected by the same or because of the period of time elapsing while such school or junior college or institution of high learning may be closed.

SOURCES: Codes, 1942, § 6232-51; Laws, 1960, ch. 316, § 11, eff from and after passage (approved April 27, 1960).

Cross References — Social security and state retirement and disability benefits generally, see §§ 25-11-3 et seq.

Teachers' retirement system generally, see §§ 25-11-201 et seq.

§ 37-65-115. Period of closure shall not be deducted from time earned toward certification.

Should any school be closed in accordance with the terms of this article, such period of closure shall not be subtracted from the period of time which would otherwise be earned by any superintendent, principal, teacher or other employee employed to render services in and about the conduct and operation of any such school, as to any certification to which such person might otherwise be entitled.

SOURCES: Codes, 1942, § 6232-51; Laws, 1960, ch. 316, § 11, eff from and after passage (approved April 27, 1960).

§ 37-65-117. Elapsed time during closure not to be deducted from time schools are required to be operated during scholastic year.

The period of time which may elapse during any closure of any school in accordance with the terms of this article, shall not be deducted or counted as a deduction from any period of time which by any other law of this state such school is required to be operated in any scholastic year. The provisions of any other law of this state setting a minimum time or number of days which any such school is required to be operated in any scholastic year shall not prevent the closure provided for in this article, and, in the event of any conflict between the terms of this article and any such other law, the provisions of this article shall control.

SOURCES: Codes, 1942, § 6232-52; Laws, 1960, ch. 316, § 12, eff from and after passage (approved April 27, 1960).

§ 37-65-119. Duties incumbent upon board of trustees upon filing of petitions to reopen schools.

If a petition or petitions be filed with the secretary or president of the board of trustees, signed in person in accord with the provisions of this article by three-fifths of the persons who are qualified electors in or of the school district in which any one or more schools have been closed and three-fifths of the qualified electors who reside in the territory comprising the attendance area, if any has been designated, served by any school which may be closed, requesting the opening of a school or schools which have been closed and specifying the school or schools the re-opening of which is requested by the petition they signed, then it shall be the mandatory duty of such board of trustees to forthwith determine whether said petition or petitions are signed by the said requisite number of said qualified electors. In order to facilitate the determination by the board of whether the petition or petitions have been signed by the requisite number of said qualified electors and so that the board of trustees may have the completed petitions before it upon which its determination shall be made, all petitions requesting the opening of the same school or schools shall be filed not later than seven days after the filing of the first petition addressed to the re-opening of the same school or schools; in computing such period of time the day of filing the said first petition shall be excluded.

The board of trustees with whom any such petition or petitions are filed shall check and verify every petition or petitions filed with it to determine whether it be properly signed or executed by the required number of qualified electors. Such board of trustees is fully authorized to employ such person or persons, including counsel, as it may deem necessary in order to expeditiously make such investigation, and it is also authorized to hold such hearing or hearings as it may deem necessary in and about its said investigation and determination. All persons purporting to have signed said petition or petitions shall cooperate with said board of trustees in and about such investigation and determination.

The said board of trustees shall diligently proceed with and complete its investigation and determination of whether said petition or petitions are signed by the requisite number of qualified electors so as to avoid unnecessary delay and in any event shall complete same within not more than forty-five days after the last day upon which, in accord with this section, any petition or petitions may be filed as above provided for. The verification by the board of trustees of the signatures to said petition or petitions shall include an examination of the records on file in the office of the circuit clerk or registrar of the county or counties in which the school district involved may be situated. If it be apparent upon the face of the petition or petitions that same are not signed by the requisite number of qualified electors, when all petitions are considered together which may have been filed within such period of time above provided for, the said board of trustees may make its determination upon the sufficiency of said petition without making the detailed investigation or incurring the expense which would otherwise be incurred by such investigation and check of the records.

Within three days after the board of trustees shall have determined whether said petition or petitions do or do not contain the requisite number of signatures to re-open any school or schools therein designated, it shall hold a regular or special meeting at the place where its regular meetings are held, if the building containing same be then in existence, or, otherwise, in some other public place within the district to be selected by the president of said board of trustees, and there make the official announcement and determination of the sufficiency or insufficiency of the said petition or petitions to cause a re-opening of any school or schools which have been closed in accord with the terms of this article and enter an order evidencing its determination. If it finds that said petition or petitions are insufficient to cause such a re-opening of any such school, it shall so state in its order, but if it finds that the petition or petitions are sufficient in accord with the terms of this article to cause a re-opening of any school or schools previously closed, it shall order that the school or schools be re-opened and go into operation within one week from the date of such meeting; the day of the entry of such order shall be included in such computation of time. Upon the entry of such order all students which have been transferred to other schools and all employees who have been working in other schools and all other employees and all other students who were enrolled in any school or schools which were closed shall, on the day appointed for the re-opening of said school or schools, report for classes and duty in the school or schools where they were attending or working when such school or schools were closed, and such order shall automatically be a re-transfer of such students and employees.

SOURCES: Codes, 1942, § 6232-43; Laws, 1960, ch. 316, § 3, eff from and after passage (approved April 27, 1960).

Cross References — Powers, authority, and duties of boards of trustees of school districts generally, see § 37-7-301.

"Qualified elector" defined, see § 37-65-123.

§ 37-65-121. Copies of petition shall be forwarded to state superintendent of public education.

A signed duplicate original copy or a photostatic or other reproduced copy, not a hand or typewritten copy, of the petition or petitions provided for in Section 37-65-119, shall be sent by registered or certified mail to the state superintendent of public education on the day when one such copy shall have been filed with or delivered to the president or secretary of the board of trustees to which such petitions be directed. Such copy or copies above mentioned may be transmitted to the state superintendent of public education by the person or persons filing or delivering same to said president or secretary of said board of trustees and shall be accompanied by the oath of such person or persons as to such facts and the date or dates on which such action was done. If such is not done the original petition shall have no validity.

All duplicate original signed copies or other copy or copies of said petitions, as hereinabove provided for, shall be preserved for not less than one calendar year from the date of said filing and same shall be public records.

SOURCES: Codes, 1942, §§ 6232-43, 6232-45; Laws, 1960, ch. 316, §§ 3, 5, eff from and after passage (approved April 27, 1960).

§ 37-65-123. "Qualified elector" defined.

The words "qualified elector" or "qualified electors" for the purposes of this article, shall in addition to the provisions of the first paragraph of Section 37-65-119, mean:

A person, who on the day he signs any petition provided for in said section, is properly registered and qualified to vote in a county wide election of the county if such were then held, according to the books and records in the office of the circuit clerk and registrar of the county, in which all or any part of the school district is located, and who is a resident of the school district in which one or more schools have been closed, and who (a) is qualified to vote in an election of a trustee of that school district, if any be elective and (b) if the school district be a municipal separate school district or a special municipal separate school district and such person lives within the corporate limits of the municipality then such person must be qualified to vote in a city wide election if such were held on the day he signs any petition herein provided for.

SOURCES: Codes, 1942, § 6232-43; Laws, 1960, ch. 316, § 3, eff from and after passage (approved April 27, 1960).

§ 37-65-125. Details of petitions.

No person shall sign any such petition or petitions provided for in Section 37-65-119 who is not a qualified elector. All petitions shall be signed in person.

Opposite or under his name, every signer shall, in a manner readily identifiable with his name, give the following information: his post office and street address, if any; the name in or by which he is registered upon the county registration books; his occupation; where employed, if employed; the voting precinct where he last voted if he has voted within the last three years; if the school district includes part of two judicial districts and has two offices of the circuit clerk and registrar, he shall specify the municipality in which is located the circuit clerk's office where he is registered; and whether he is parent, natural or adoptive, or guardian, as the case may be, of a child or children enrolled in a school of the district and if so, the name of the child or children and the school in which said child or children may be enrolled. Any name signed to such a petition which does not give all information required above shall not constitute a valid signature to any such petition and shall be disregarded in computing the number of qualified electors who may have signed any such petition.

SOURCES: Codes, 1942, § 6232-43; Laws, 1960, ch. 316, § 3, eff from and after passage (approved April 27, 1960).

Cross References — "Qualified elector defined, see § 37-65-123.

§ 37-65-127. Board may act at regular or special meeting.

Any action or order of the board of trustees provided for in this article or deemed necessary may be taken at any regular or special meeting thereof, held at the place where such board holds its regular meetings, or otherwise as provided in this article and at which a majority of the board of trustees shall be present.

SOURCES: Codes, 1942, § 6232-44; Laws, 1960, ch. 316, § 4, eff from and after passage (approved April 27, 1960).

§ 37-65-129. Appeals.

In the event any board of trustees shall fail or refuse to comply with the provisions of Sections 37-65-119 through 37-65-127, a failure to act being equivalent to a refusal, then any ten or more qualified electors who have personally signed said petition may appeal from the action or nonaction of such board of trustees to the chancery court of the county in which all or a major portion of such school district is situated, within twenty days after the date by which said board is required to determine whether such petition or petitions are properly signed by the required percentage of qualified electors necessary to require the opening of any school or schools of the district which have been closed. Such appeal shall not serve as a supersedeas or cause an opening of such school or schools pending the hearing of the appeal unless a court or chancellor in vacation, for good cause shown, orders such school or schools to be opened pending the appeal. The appeal shall be by sworn bill of complaint, filed in such chancery court within said twenty-day period. The secretary of the interested board or boards of trustees shall, within fifteen days after the filing of such bill of complaint, file in such chancery court a certified copy of all orders, petitions and findings by such board of trustees; however, he may, in his discretion, file, instead of making copies thereof, the duplicate original copy of the petitions theretofore filed or delivered, if such has been done, with the president or secretary of said board of trustees. Neither the provisions of this section nor any other provision of this article shall be or constitute any waiver of the immunity from suit of any school district or member of the board of trustees thereof except strictly in accord with the terms of this article.

The hearing on appeal shall be de novo and may be heard in term time or in vacation on such date as the chancellor may set. The court may enter such order as the board of trustees involved should have made or affirm the action of such board of trustees. Said appeal shall be tried in the same manner and by the same rules of pleading, procedure and evidence as other causes in chancery courts of Mississippi. The action of such board of trustees shall be affirmed if there be substantial evidence to support the action taken by it. The said board and any qualified electors of the district, by proper pleading, answer or demurrer as used in the chancery courts of this state, may defend the action or nonaction of the board from which the appeal is taken, and be a party thereto.

Any parties to such appeal may appeal from the decision of the chancellor or chancery court to the supreme court of Mississippi as in appeals in other cases from the chancery courts of this state and such case shall be a preference case and treated as such.

SOURCES: Codes, 1942, § 6232-46; Laws, 1960, ch. 316, § 6, eff from and after passage (approved April 27, 1960).

§ 37-65-131. Construction of article.

The fact that the power and authority to close any one or more or all of the schools of any school district may, by some other law of the State of Mississippi, be vested in some other person or officer or board shall not cause this article and any other such law to be in conflict nor shall the same be construed to be in conflict with each other, and the power and authority vested in each such board or boards of trustees or person or officer may be exercised by each or either, independent of the other such board or boards or person or persons or officer or officers.

SOURCES: Codes, 1942, § 6232-53; Laws, 1960, ch. 316, § 13, eff from and after passage (approved April 27, 1960).

CHAPTER 101

Institutions of Higher Learning; General Provisions

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IN GENERAL

Sec.
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37-101-17. Repealed.
37-101-19. Marine research laboratory.
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37-101-23. Establishment of Mississippi Small Farm Development Center; offices and officers; functions generally.
37-101-25. Development by center of plan to foster certain small enterprises.
37-101-27. Creation of Ayers Endowment Trust.
37-101-28. Repealed.
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37-101-30. Retirement incentive program; legislative findings; definitions; monetary incentive; eligibility; rules and regulations.

§ 37-101-1. Management of state institutions of higher learning.

The following state institutions of higher learning, namely:

(a) The University of Mississippi;
(b) The Mississippi State University of Agriculture and Applied Science;
(c) The Mississippi State College for Women;
(d) The University of Southern Mississippi;
(e) The Delta State College;
(f) The Alcorn Agricultural and Mechanical College;
(g) The Jackson State College;
(h) The Mississippi Valley State College;
(i) and any other of like kind which may be hereafter established by the state;

shall be under the management and control of a board of trustees to be known as the board of trustees of state institutions of higher learning.

SOURCES: Codes, 1942, § 6719; Laws, 1932, ch. 127; Laws, 1944, ch. 262, § 2.

Editor's Note — Section 37-117-1 changed the name of Mississippi State College for Women to Mississippi University for Women.

Section 37-121-1 changed the name of Alcorn Agricultural and Mechanical College to Alcorn State University.

Section 37-123-1 changed the name of Delta State College to Delta State University.

Section 37-125-1 changed the name of Jackson State College to Jackson State University.

Section 37-127-1 changed the name of Mississippi Valley State College to Mississippi Valley State University.

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Election of a member of the board of trustees of the public employees' retirement system of Mississippi by members of such system who are employees of the institutions of higher learning as included in this section, see § 25-11-15.

Optional retirement program for employees of state institutions of higher learning, see § 25-11-401.

Issuance of general obligation bonds for the purpose of renovating or repairing facilities at various institutions of higher learning, the Education and Research Center, and the Gulf Coast Research Laboratory, see § 37-101-301.

Education Achievement Council to work collaboratively with the Board of Trustees of State Institutions of Higher Learning to achieve state's goal of increasing educational attainment and skill levels to national average, see § 37-163-1.

Fisheries and Wildlife Research, see §§ 49-3-1 et seq.

Inclusion of state-supported universities in small business consortium, see § 57-10-157.

Exclusion of certain university-supplied services from review by small business consortium board, see § 57-10-161.

Mississippi Marine Resources Council, see §§ 57-15-1 et seq.

Forest and Wildlife Research Center at Mississippi State University, see §§ 57-18-1 et seq.

Food Technology Laboratory, see §§ 57-19-1 et seq.

Mississippi State Chemical Laboratory, see §§ 57-21-1 et seq.

Research Institute of Pharmaceutical Sciences at the University of Mississippi, see §§ 57-23-1 et seq.

Mississippi Law Research Institute, see § 57-55-5.
Water Resources Research Institute, see § 57-55-7.
Mississippi Mineral Resources Institute, see § 57-55-9.
Small business development center, see § 57-55-11.
Mississippi Polymer Institute, see § 57-55-13.
Mississippi Energy Research Center, see § 57-55-15.
Mississippi Urban Research Center, see § 57-55-17.
Mississippi Department of Transportation to construct, repair and maintain driveways and streets on grounds of universities and colleges under jurisdiction of Board of Trustees of the State Institutions of Higher Learning, see § 65-1-37.

JUDICIAL DECISIONS

1. In general.
2. Constitutionality.
3. Relationship to other laws.
4. Immunity.

1. In general.

Trial court properly granted a university's motion to dismiss plaintiff's personal injury complaint where the university was definitively identified as an institution of the State of Mississippi; therefore, service of process was dictated by Miss. R. Civ. P. 4(d)(5), and plaintiff should have served the Attorney General of the State of Mississippi rather than the university president. Jones v. Miss. State Univ., 948 So. 2d 509 (Miss. Ct. App. 2007).

University of Mississippi Medical Center (UMC) purchasing policies are authorized by the Board of Trustees by virtue of the authority bestowed upon them by the legislature and, therefore, are not merely internal policies. Whether for a purchase or a lease, certain procedures are required by statute for letting a contract with the State of Mississippi. Board of Trustees of State Insts. of Higher Learning v. Peoples Bank, 538 So. 2d 361 (Miss. 1989).

The University of Southern Mississippi is an agency of the state, controlled by a legislative grant of authority to the Board of Trustees of State Institutions of Higher Learning. Bruner v. University of S. Miss., 501 So. 2d 1113 (Miss. 1987).

2. Constitutionality.

The Board of Trustees of State Institutions of Higher Learning is part of the executive branch of government rather than an autonomous branch of government, and thus does not constitute a fourth branch of government inconsistent with the Mississippi Constitution. Van Slyke v. Board of Trustees of State Insts. of Higher Learning, 613 So. 2d 872 (Miss. 1993).

The Board of Trustees of State Institutions of Higher Learning is an executive rather than a legislative body as indicated by the enumeration of the Board of Trustees' powers and duties contained within the Mississippi Constitution and applicable statutes; thus, appointment of the Board of Trustees by the Governor rather than the legislature is not an encroachment upon the powers of the legislative branch of the government. Van Slyke v. Board of Trustees of State Insts. of Higher Learning, 613 So. 2d 872 (Miss. 1993).

3. Relationship to other laws.

Board of trustees of state institution of higher learning is not exempt from Open Meeting Act (§§ 25-41-1 et seq.) under either Mississippi Constitution (§ 213-A) or its companion statute (§§ 37-101-1 et seq). Board of Trustees of State Insts. of Higher Learning v. Mississippi Publishers Corp., 478 So. 2d 269 (Miss. 1985).

4. Immunity.

Former state university student's 42 U.S.C.S. §§ 1981, 1983 race discrimination claims against the university, a state board of trustees, and several professors were barred under the U.S. Const. Amend. XI doctrine of sovereign immunity; both the university and the board were arms of the State of Mississippi where the board was created pursuant to Miss. Const. Art. 8, § 213A, the Mississippi Legislature granted further authority to the board via Miss. Code Ann. § 37-101-1, and the university was a public university created by statute and placed under the auspices of the board via Miss. Code Ann. §§ 37-125-1 et seq. and 37-101-1. Washington v. Jackson State Univ., 532 F. Supp. 2d 804 (S.D. Miss. Mar. 15, 2006), appeal dismissed by 244 Fed. Appx. 589, 2007 U.S. App. LEXIS 18811 (5th Cir. Miss. 2007).

Though an action for refund of tuition payments was brought against the president of Mississippi State University and other university officials, under state law Mississippi is inextricably involved in all facets of the operation of the university, the university and its officials being part and parcel of the state; thus, the state was the true defendant to the suit and its Eleventh Amendment immunity was applicable. Jagnandan v. Giles, 538 F.2d 1166 (5th Cir. 1976), cert. denied, 432 U.S. 910, 97 S. Ct. 2959, 53 L. Ed. 2d 1083 (1977).

ATTORNEY GENERAL OPINIONS

A county E911 Commission cannot require a state institution of higher learning to join the local emergency communications system. Tomek, October 16, 1998, A.G. Op. #98-0592.

RESEARCH REFERENCES

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J. 263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-101-2. Welfare Policy Institute.

There is hereby established within the Board of Trustees of State Institutions of Higher Learning a Welfare Policy Institute at a campus location to be designated by the board of trustees. The purpose of the institute shall be to research and gather empirical information regarding the social and welfare programs authorized under Sections 43-49-1 through 43-49-15, 43-13-115, 43-17-1, 43-17-5, 43-1-8, 43-1-10, 43-1-30 and 37-101-2 and to write grant proposals regarding the policy implications of such program.

SOURCES: Laws, 1993, ch. 614 § 16, eff from and after passage (approved April 15, 1993).

Editor's Note — Sections 43-49-1 through 43-49-15 referred to in this section were repealed by Laws, 1997, ch. 316, § 27, eff from and after passage (approved March 12, 1997).

Sections 43-1-8 and 43-1-10 referred to in this section were repealed by Laws, 1994, ch. 582, § 8, eff from and after July 1, 1984.

§ 37-101-3. Appointment and terms of office of members of Board of Trustees of State Institutions of Higher Learning; attendance at meetings.

(1) The Governor, by and with the advice and consent of the Senate, shall appoint the members of the Board of Trustees of State Institutions of Higher Learning, one (1) member from each congressional district of the state as existing as of March 31, 1944, one (1) member from each Supreme Court district and two (2) members from the state at large, with the terms of each to begin on May 8, 1944. One-third (⅓) of the membership of said board so appointed shall be appointed for a period of four (4) years, one-third (⅓) for a period of eight (8) years and one-third (⅓) for a period of twelve (12) years. On the expiration of any of said terms of office the Governor shall appoint successors, by and with the advice and consent of the Senate, for terms of twelve (12) years in each case.

The current president, or his/her designee, of the Student Body President's Council of Mississippi (SBPCM) shall have a reserved seat at each meeting of the Board of Trustees of State Institutions of Higher Learning. No less than once a year, the board shall seek the advise and counsel of the student body president's organization.

(2) In case of a vacancy on said board by death or resignation of a member or from any other cause than the expiration of such member's term of office, the board shall elect his successor who shall hold office until the end of the next session of the Legislature. During such term of the session of the Legislature, the Governor shall appoint the successor member of the board from the district from which his predecessor was appointed to hold office until the end of the period or term for which said original trustee was appointed, to the end that one-third (1/3) of such trustees' terms shall expire each four (4) years.

(3) The Executive Director of the Mississippi Community College Board, or his designee, and one (1) member of the Mississippi Community College Board, to be designated by the chairman of said board, shall attend all regular meetings of the Board of Trustees of State Institutions of Higher Learning. Said community/junior college representatives shall have no jurisdiction or vote on any matter within the jurisdiction of the board. The Executive Director of the Mississippi Community College Board and any designee who is a state employee shall receive no per diem for attending meetings of the board, but shall be entitled to actual and necessary expense reimbursement and mileage for attending meetings at locations other than Jackson, Mississippi. The designee of the Mississippi Community College Board shall receive per diem compensation as authorized by Section 25-3-69, Mississippi Code of 1972, for attending said meetings, and shall be entitled to reimbursement for actual expense reimbursement and mileage, which shall be paid from funds appropriated to the Board of Trustees of State Institutions of Higher Learning.

SOURCES: Codes, 1942, § 6720; Laws, 1940, ch. 196; Laws, 1944, ch. 262, § 3; Laws, 1988, ch. 426, § 1; Laws, 1989, ch. 413, § 2; Laws, 2006, ch. 596, § 1; Laws, 2014, ch. 397, § 41, eff from and after July 1, 2014.

Editor's Note — Laws of 1986, ch. 500, § 21, proposed to amend this section, subject, however, to the proviso, contained in § 56 of that chapter, that such amendment would take effect and be in force from and after ratification by the electorate of House Concurrent Resolution No. 278, 1986 Regular Session; however, since House Concurrent Resolution No. 278 was not enacted during the 1986 legislative session, the amendment was not implemented.

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" four times in (3).

Cross References — Management and control of state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Mississippi Community College Board generally, see §§ 37-4-1 et seq.

JUDICIAL DECISIONS

1. In general.

The appointment of members to the Board of Trustees of State Institutions of Higher Learning does not violate the principle of "one-man, one-vote"; the "one-man, one-vote" rule does not apply to appointed positions, and therefore is not applicable to appointed members of the Board of Trustees. Van Slyke v. Board of Trustees of State Insts. of Higher Learning, 613 So. 2d 872 (Miss. 1993).

§ 37-101-4. Felix La Bauve Scholarship Trust.

There shall be a trusteeship, to be known as the Felix La Bauve Scholarship Trust, for the Felix La Bauve Scholarship that exists for the benefit of the University of Mississippi. The trusteeship shall be composed of three (3) persons. The initial composition of the trusteeship shall be the two (2) persons who last filled the position of La Bauve trustee on the Board of Trustees of State Institutions of Higher Learning and, as an ex officio voting member, the person holding the office of DeSoto County Superintendent of Education. The term of the trustee who served as La Bauve trustee on the Board of Trustees of State Institutions of Higher Learning from 1980-1984 shall be four (4) years. The term of the trustee who served in that position from 1984-1988 shall be eight (8) years. The term of each of the trustees shall begin on June 1, 1988.

At least one (1) month before the expiration of the term of a trustee, other than the DeSoto County Superintendent of Education, the trusteeship shall choose a successor who shall serve a term of eight (8) years. No trustee other than the DeSoto County Superintendent of Education shall serve more than one (1) term of office. Any person chosen as a trustee other than the Superintendent of Education shall be a resident of DeSoto County and shall hold an undergraduate degree from the University of Mississippi.

In case of the death, disability or resignation of any trustee, other than the DeSoto County Superintendent of Education, the trusteeship shall appoint a person to serve the remainder of the term of his predecessor who shall be a resident of DeSoto County and shall hold an undergraduate degree from the University of Mississippi.

The trusteeship shall be responsible for recommending to the Chancellor of the University of Mississippi prospective students who are eligible recipients of the La Bauve Scholarship. The Chancellor shall choose the best qualified student or students from those nominated, depending on the amount of monies available for scholarship awards.

The Legislature shall continue to appropriate the annual sum to the University of Mississippi that has been paid in lieu of the interest earned on the original corpus of the La Bauve Scholarship Fund until such time as the Legislature restores the original corpus of the fund, adjusted to current value at the time of restoration. Once the Legislature has restored the fund as hereinbefore provided, the annual appropriation shall cease, and scholarships shall be awarded from the income on the corpus of the fund. Thereafter, no expenditure shall be made from the corpus of the fund for any purpose.

SOURCES: Laws, 1988, ch. 426, § 2, eff from and after June 1, 1988.

§ 37-101-5. Qualifications of members of board.

There shall be appointed only men or women to membership on the board of trustees of state institutions of higher learning as shall be qualified electors residing in the district from which each is appointed and at least twenty-five years of age and of the highest order of intelligence, character, learning and fitness for the performance of such duties to the end that such board shall perform the high and honorable duties thereof to the greatest advantage of the people of the state and of such institutions, uninfluenced by any political considerations.

SOURCES: Codes, 1942, § 6721; Laws, 1932, ch. 127; Laws, 1944, ch. 262, § 4.

JUDICIAL DECISIONS

1. In general.

The appointment of members to the Board of Trustees of State Institutions of Higher Learning does not violate the principle of "one-man, one-vote"; the "one-man, one-vote" rule does not apply to appointed positions, and therefore is not applicable to appointed members of the Board of Trustees. Van Slyke v. Board of Trustees of State Insts. of Higher Learning, 613 So. 2d 872 (Miss. 1993).

§ 37-101-7. Organization of board; Commissioner of Higher Education; employment of personnel.

Within ten (10) days after the beginning of the terms of office of its members, upon call of the Governor, the Board of Trustees of State Institutions of Higher Learning shall meet in the City of Jackson and organize by electing one (1) of its number as president, whose term of office shall be for one (1) year or until a successor shall be elected, and shall transact such other business as may come before the meeting. When the presiding officer has voted and the result is a tie, he cannot vote again to break the tie.

The trustees shall have authority to appoint a nonmember as Commissioner of Higher Education, who shall possess the highest qualifications as an administrator and research worker. The Commissioner of Higher Education shall maintain an office and be responsible to the board for the efficient functioning of the staff which the board may from time to time establish. It shall be the duty of the Commissioner of Higher Education to make constant inquiry into the problems of higher education, to survey and study carefully the organization, management and all other affairs of each institution under the control of said trustees, to make report of all findings and recommend such changes as will increase efficiency and economy in the operation of each institution, and to perform such other duties as the board may prescribe. The Commissioner of Higher Education shall be responsible for compiling all laws and all rules and regulations of a general nature adopted by the board for the governance of the various institutions of higher learning in pamphlet or loose-leaf form. Current copies of such compilations shall be furnished to all officials directly responsible for the carrying out of such laws, rules and regulations. The expenses for such compilation and publication shall be paid by the board out of any funds available for the operation of said board.

The trustees shall authorize the employment of such other personnel as may be required from time to time to carry out the functions of the board and may assign to the personnel so employed such functions and duties and may delegate to the commissioner or other personnel such powers of the board as may be necessary to accomplish the purposes for which the board was established. All such personnel shall be employed by the commissioner with the approval of the board and shall hold office at the pleasure of the commissioner. The board shall also have the authority to employ on a fee basis such technical and professional assistance as may be necessary to carry out the powers, duties and purposes of the board.

The Commissioner of Higher Education and other personnel employed by the board shall receive reasonable salaries commensurate with their duties and functions, the amount of which shall be fixed by the board. The reasonable traveling expenses and other authorized expenses incurred by the commissioner and other personnel in the performance of their duties, together with other expenses of the operation of the executive office, shall be prorated and deducted from the appropriations for the current expenses of the several institutions.

SOURCES: Codes, 1942, § 6722; Laws, 1932, ch. 127; Laws, 1940, ch. 196; Laws, 1944, ch. 262, § 5; Laws, 1946, ch. 318, § 1; Laws, 1956, ch. 292, § 1; Laws, 1962, ch. 367, §§ 1, 2; Laws, 1988, ch. 324, § 1, eff from and after July 1, 1988.

Editor's Note — Laws of 2011, ch. 511, § 1, provides:

"SECTION 1. (1) The State Superintendent of Public Education, the Commissioner of Higher Education and the Executive Director of the State Board for Community and Junior Colleges, acting jointly, shall develop a comprehensive report and recommendations to the 2012 Legislature on the implementation and operations of 'Early College High Schools.' The report shall be submitted no later than January 2, 2012, and shall provide, at a minimum, the following:

"(a) A clear definition of what constitutes an Early College High School and how it enhances education and job-related opportunities;

"(b) The mission and intent of such schools;

"(c) The established criteria for admission;

"(d) An outline of the comprehensive costs of establishing and operating such a school, including transportation, and recommendations on how the state and local school districts should pay those costs;

"(e) A requirement to provide reports on the status and level of success of operating Early College High Schools in other states across the country;

"(f) Implications for student participation in sports programs and other extracurricular activities when attending an Early College High School;

"(g) An identification of and recommendations on any state laws and policies that may need amending to provide authority for the implementation and operation of such schools;

"(h) Recommendations and costs for state and local funding of transportation services for other forms of dual enrollment programs operated across the state; and

"(i) Any other information as determined to be necessary to benefit the scope and detail of the report.

"(2) The State Superintendent of Public Education, the Commissioner of Higher Education and the Executive Director of the State Board for Community and Junior Colleges, acting jointly, shall include specific recommendations on the establishment of an Early College High School Pilot Program in Mississippi in the report submitted to the 2012 Legislature."

Cross References — Commissioner as member of Hazardous Waste Technical Siting Committee, see § 17-18-11.

Reports of students charged with misdemeanors, see §§ 37-11-29 through 37-11-33.

Membership of president of board of trustees on nuclear waste technical review committee, see § 57-49-11.

JUDICIAL DECISIONS

1. In general.

Neither § 213-A of the Mississippi Constitution nor Code 1972 § 37-101-7 confer upon the Board of Trustees of State Institutions of Higher Learning the authority to engage private counsel over the objection of the Attorney General in a case of statewide interest. Wade v. Mississippi Coop. Extension Serv., 392 F. Supp. 229 (N.D. Miss. 1975).

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 9 et seq.

CJS. 14A C.J.S., Colleges and Universities §§ 14, 15.

§ 37-101-9. Compensation of members of board; meetings.

The Board of Trustees of State Institutions of Higher Learning shall serve without salary compensation but shall receive a per diem and mileage as authorized by law including time of going to and returning from meetings of said board, together with actual travel and hotel expenses incident to the meetings of the board, and in the discharge of duties prescribed by the board.

The board of trustees shall hold two (2) regular slated meetings annually, one (1) in June and the other in January, and as many special meetings as may be necessary on call of the president or on call of five (5) members. In either case, the call shall be in writing and shall be mailed by registered letter with return receipt requested, or by certified mail, to each and every member at least five (5) days prior to the date of meeting. Eight (8) members of the board shall constitute a quorum for the transaction of business.

SOURCES: Codes, 1942, § 6723; Laws, 1932, ch. 127; Laws, 1940, ch. 196; Laws, 1944, ch. 262, § 6; Laws, 1958, ch. 312; Laws, 1962, ch. 368; Laws, 1978, ch. 370, § 1; Laws, 1980, ch. 560, § 15; Laws, 1992, ch. 342 § 1, eff from and after passage (approved April 20, 1992).

Cross References — Provision authorizing uniform per diem compensation for officers and employees of state boards, commissions and agencies, see § 25-3-69.

§ 37-101-11. Official seal.

The board of trustees of state institutions of higher learning is hereby authorized and empowered, in its discretion, to adopt and have an official seal in such form as it deems appropriate for its official use.

SOURCES: Codes, 1942, § 6719.5; Laws, 1958, ch. 310.

§ 37-101-13. Study of role and scope of institutions; supervision and control of programs, etc.

It shall be the duty of the Board of Trustees of State Institutions of Higher Learning and the boards of trustees of the community colleges to begin immediately a comprehensive study of gaming and related programs, degrees and courses offered. Following the completion of such study, the board shall make such adjustments as may be found to be necessary in the programs of the various institutions, to the end that the broadest possible educational opportunities shall be offered to the citizens of this state without inefficient and needless duplication. Subject to the provisions of Section 75-76-34, the board shall, through such officers of the board and through such procedures as it shall see fit to establish, exercise continuing jurisdiction and control over the establishment of new courses of study, new departments and new functions and activities in each institution so that the growth and development of the program of higher education in the state shall proceed in an orderly and rational manner, inefficient and needless duplication may be avoided, and new expanded programs will be undertaken only as the same may become justified, based upon objective criteria to be established by the board. In carrying out the purposes of this section, particular attention shall be given to the extension programs of the various institutions. The boards, in conjunction with the chancellor and presidents of the institutions, shall take such steps as may be necessary to improve and coordinate such programs and shall exercise such direct control over the establishment, organization, operation and granting of credit for such programs as may be necessary to accomplish such purposes.

SOURCES: Codes, 1942, § 6722; Laws, 1932, ch. 127; Laws, 1940, ch. 196; Laws, 1944, ch. 262, § 5; Laws, 1946, ch. 318, § 1; Laws, 1956, ch. 292, § 1; Laws, 1962, ch. 367, §§ 1, 2; Laws, 1985, ch. 453, § 1; Laws, 2013, ch. 327, § 3, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment rewrote the first sentence, which formerly read: "It shall be the duty of the Board of Trustees of State Institutions of Higher Learning to begin immediately a comprehensive study of the role and scope of all of the various institutions under its jurisdiction, including a detailed study of the programs of study, degrees and courses offered"; added "Subject to the provisions of Section 75-76-34" to the beginning of the third sentence; and deleted "of Higher learning" following "institutions" in the last sentence made a minor stylistic change.

Cross References — Duties of Mississippi Community College Board, see § 37-4-3.

Reports of students charged with misdemeanors, see §§ 37-11-29 through 37-11-33.

Duties of board, in general, see § 37-101-15.

JUDICIAL DECISIONS

1. In general.

The Board of Trustees of State Institutions of Higher Learning is an executive rather than a legislative body as indicated by the enumeration of the Board of Trustees' powers and duties contained within the Mississippi Constitution and applicable statutes; thus, appointment of the Board of Trustees by the Governor rather than the legislature is not an encroachment upon the powers of the legislative branch of the government. Van Slyke v. Board of Trustees of State Insts. of Higher Learning, 613 So. 2d 872 (Miss. 1993).

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 9 et seq.

CJS. 14A C.J.S., Colleges and Universities §§ 13, 16.

§ 37-101-15. General powers and duties of board.

(a) The Board of Trustees of State Institutions of Higher Learning shall succeed to and continue to exercise control of all records, books, papers, equipment, and supplies, and all lands, buildings, and other real and personal property belonging to or assigned to the use and benefit of the board of trustees formerly supervising and controlling the institutions of higher learning named in Section 37-101-1. The board shall have and exercise control of the use, distribution and disbursement of all funds, appropriations and taxes, now and hereafter in possession, levied and collected, received, or appropriated for the use, benefit, support, and maintenance or capital outlay expenditures of the institutions of higher learning, including the authorization of employees to sign vouchers for the disbursement of funds for the various institutions, except where otherwise specifically provided by law.

(b) The board shall have general supervision of the affairs of all the institutions of higher learning, including the departments and the schools thereof. The board shall have the power in its discretion to determine who shall be privileged to enter, to remain in, or to graduate therefrom. The board shall have general supervision of the conduct of libraries and laboratories, the care of dormitories, buildings, and grounds; the business methods and arrangement of accounts and records; the organization of the administrative plan of each institution; and all other matters incident to the proper functioning of the institutions. The board shall have the authority to establish minimum standards of achievement as a prerequisite for entrance into any of the institutions under its jurisdiction, which standards need not be uniform between the various institutions and which may be based upon such criteria as the board may establish.

(c) The board shall exercise all the powers and prerogatives conferred upon it under the laws establishing and providing for the operation of the several institutions herein specified. The board shall adopt such bylaws and regulations from time to time as it deems expedient for the proper supervision and control of the several institutions of higher learning, insofar as such bylaws and regulations are not repugnant to the Constitution and laws, and not inconsistent with the object for which these institutions were established. The board shall have power and authority to prescribe rules and regulations for policing the campuses and all buildings of the respective institutions, to authorize the arrest of all persons violating on any campus any criminal law of the state, and to have such law violators turned over to the civil authorities.

(d) For all institutions specified herein, the board shall provide a uniform system of recording and of accounting approved by the State Department of Audit. The board shall annually prepare, or cause to be prepared, a budget for each institution of higher learning for the succeeding year which must be prepared and in readiness for at least thirty (30) days before the convening of the regular session of the Legislature. All relationships and negotiations between the State Legislature and its various committees and the institutions named herein shall be carried on through the board of trustees. No official, employee or agent representing any of the separate institutions shall appear before the Legislature or any committee thereof except upon the written order of the board or upon the request of the Legislature or a committee thereof.

(e) For all institutions specified herein, the board shall prepare an annual report to the Legislature setting forth the disbursements of all monies appropriated to the respective institutions. Each report to the Legislature shall show how the money appropriated to the several institutions has been expended, beginning and ending with the fiscal years of the institutions, showing the name of each teacher, officer, and employee, and the salary paid each, and an itemized statement of each and every item of receipts and expenditures. Each report must be balanced, and must begin with the former balance. If any property belonging to the state or the institution is used for profit, the reports shall show the expense incurred in managing the property and the amount received therefrom. The reports shall also show a summary of the gross receipts and gross disbursements for each year and shall show the money on hand at the beginning of the fiscal period of the institution next preceding each session of the Legislature and the necessary amount of expense to be incurred from said date to January 1 following. The board shall keep the annual expenditures of each institution herein mentioned within the income derived from legislative appropriations and other sources, but in case of emergency arising from acts of providence, epidemics, fire or storm with the written approval of the Governor and by written consent of a majority of the senators and of the representatives it may exceed the income. The board shall require a surety bond in a surety company authorized to do business in this state, of every employee who is the custodian of funds belonging to one or more of the institutions mentioned herein, which bond shall be in a sum to be fixed by the board in an amount that will properly safeguard the said funds, the premium for which shall be paid out of the funds appropriated for said institutions.

(f) The board shall have the power and authority to elect the heads of the various institutions of higher learning and to contract with all deans, professors, and other members of the teaching staff, and all administrative employees of said institutions for a term of not exceeding four (4) years. The board shall have the power and authority to terminate any such contract at any time for malfeasance, inefficiency, or contumacious conduct, but never for political reasons. It shall be the policy of the board to permit the executive head of each institution to nominate for election by the board all subordinate employees of the institution over which he presides. It shall be the policy of the board to elect all officials for a definite tenure of service and to reelect during the period of satisfactory service. The board shall have the power to make any adjustments it thinks necessary between the various departments and schools of any institution or between the different institutions.

(g) The board shall keep complete minutes and records of all proceedings which shall be open for inspection by any citizen of the state.

(h) The board shall have the power to enter into an energy performance contract, energy services contract, a shared-savings, lease or lease-purchase basis, for energy efficiency services and/or equipment as prescribed in Section 31-7-14.

(i) The Board of Trustees of State Institutions of Higher Learning, for and on behalf of Jackson State University, is hereby authorized to convey by donation or otherwise easements across portions of certain real estate located in the City of Jackson, Hinds County, Mississippi, for right-of-way required for the Metro Parkway Project.

(j) In connection with any international contract between the board or one (1) of the state's institutions of higher learning and any party outside of the United States, the board or institution that is the party to the international contract is hereby authorized and empowered to include in the contract a provision for the resolution by arbitration of any controversy between the parties to the contract relating to such contract or the failure or refusal to perform any part of the contract. Such provision shall be valid, enforceable and irrevocable without regard to the justiciable character of the controversy. Provided, however, that in the event either party to such contract initiates litigation against the other with respect to the contract, the arbitration provision shall be deemed waived unless asserted as a defense on or before the responding party is required to answer such litigation.

(k) The Board of Trustees of State Institutions of Higher Learning ("board"), on behalf of any institution under its jurisdiction, shall purchase and maintain business property insurance and business personal property insurance on all university-owned buildings and/or contents as required by federal law and regulations of the Federal Emergency Management Agency (FEMA) as is necessary for receiving public assistance or reimbursement for repair, reconstruction, replacement or other damage to those buildings and/or contents caused by the Hurricane Katrina Disaster of 2005 or subsequent disasters. The board is authorized to expend funds from any available source for the purpose of obtaining and maintaining that property insurance. The board is authorized to enter into agreements with the Department of Finance and Administration, local school districts, community/junior college districts, community hospitals and/or other state agencies to pool their liabilities to participate in a group business property and/or business personal property insurance program, subject to uniform rules and regulations as may be adopted by the Department of Finance and Administration.

(*l*) The Board of Trustees of State Institutions of Higher Learning, or its designee, may approve the payment or reimbursement of reasonable travel expenses incurred by candidates for open positions at the board's executive office or at any of the state institutions of higher learning, when the job candidate has incurred expenses in traveling to a job interview at the request of the board, the Commissioner of Higher Education or a state institution of higher learning administrator.

SOURCES: Codes, 1942, § 6724; Laws, 1932, ch. 127; Laws, 1944, ch. 262, §§ 7-13 (a-g, supra); Laws, 1960, ch. 291; Laws, 1962, ch. 367, § 3; Laws, 1970, ch. 388, § 1; Laws, 1985, ch. 493, § 5; Laws, 1987, ch. 436; Laws, 1998, ch. 578, § 2; Laws, 2004, ch. 313, § 1; Laws, 2005, 5th Ex Sess, ch. 24, § 6; Laws, 2011, ch. 373, § 1; Laws, 2014, ch. 481, § 5, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in paragraph (c). The word "violaters" was changed to "violators". The Joint Committee ratified the correction at its December 3, 1996 meeting.

Editor's Note — Laws of 2006, ch. 554, § 4 provided as follows:

"SECTION 4. (1) There is created a commission to study the effectiveness and efficiency of the administration of college tuition assistance programs administered by the Institutions of Higher Learning. In addition, the commission shall evaluate merit based college tuition assistance programs and establish procedures and guidelines for implementing merit based programs.

"The commission shall make a report of its findings and recommendations to the House and Senate Education Committees and to the House and Senate Universities and Colleges Committees by October 1, 2006, including any recommended legislation. Upon submission of its report to the Legislature the commission shall be dissolved.

"(2) The commission shall be composed of the following five (5) members:

"(a) A representative of the State Department of Education, to be appointed by the State Superintendent of Public Education;

"(b) A representative from the Institutions of Higher Learning, to be appointed by the commissioner;

"(c) A representative from the State Board for Community and Junior Colleges, to be appointed by the executive director;

"(d) A representative from the Mississippi Association of Independent Colleges appointed by the President of the Mississippi Association of Independent Colleges; and

"(e) The State Treasurer, or his designee.

"(3) Appointments shall be made within thirty (30) days after the effective date of this act. The commission shall hold its first meeting before July 15, 2006.

"(4) Members of the commission may not be compensated for the performance of their duties. Any incidental costs associated with conducting the study shall be paid by the State Department of Education.

"(5) To effectuate the purposes of this section, any department, division, board, bureau, commission or agency of the state or of any political subdivision thereof shall, at the request of the chairperson of the task force, provide to the commission such facilities, assistance and data as will enable the commission to properly carry out its duties."

Laws of 2011, ch. 511, § 2, provides:

"SECTION 2. (1) The State Board of Education, in conjunction with the Board of Trustees of State Institutions of Higher Learning and the State Board for Community and Junior Colleges, shall study and develop a comprehensive report and recommendations to the 2012 Legislature, by January 2, 2012, on the implementation, expansion and costs associated with the establishment of an Adult High School Diploma. The Chairmen of the House and Senate Education Committees, or their respective designees, and a representative appointed by the Governor, shall serve on the study panel for the development of an Adult High School Diploma.

"(2) The gubernatorial appointment to the study panel shall be made within thirty (30) days after the effective date of this act [April 26, 2011].

"(3) Legislative members of the study panel shall serve without compensation for their services, but may be reimbursed for necessary expense in attending to the actual business of the study panel from any available funds, as provided by law. Legislative members shall be reimbursed from the contingent expense fund of their respective house, but only with the specific approval of the Rules Committee of the respective house; however, no expense for attending meetings of the study panel may be paid while the Legislature is in session."

Section 37-4-5 provides that the terms "Junior College Commission" and "State Board for Community and Junior Colleges," wherever they appear in the laws of Mississippi, shall mean the "Mississippi Community College Board."

Amendment Notes — The 2014 amendment, in (h), substituted "power to enter into an energy performance contract, energy services contract" for "power to contract, on" and deleted "not to exceed ten (10) years" from the end.

Cross References — Management and control of state institutions of higher learning, see Miss. Const Art. 8, § 213A.

Department of audit generally, see §§ 7-7-1 et seq.

Rule that municipalities may not incorporate state institutions without consent of board of trustees of that institution, see § 21-1-59.

Budgets for universities and colleges, see § 27-103-127.

Board of trustees of state institutions of higher learning to create IHL accountability and transparency website; website to include, among other things, access to financial reports and audits, budgets, etc., see § 27-104-155.

Power of the board of trustees of state institutions of higher learning to require physical examinations of school employees, see § 37-11-17.

Eye protective devices required during participation in certain vocational, industrial arts, and chemical-physical courses of instruction, see § 37-11-49.

Rule that board of trustees may pay employees' salaries while schools are closed, see § 37-65-7.

Creation of Gulf Coast Research Laboratory, see § 37-101-21.

Power of the board of trustees to borrow money to improve or add to existing facilities, see § 37-101-91.

Standards governing board of trustees in ascertaining legal residence of applicants for admission to institutions of higher learning, see §§ 37-103-1 et seq.

Power of the board to acquire or sell property for use of Mississippi State University of Agriculture and Applied Science, see § 37-113-7.

Establishment and operation of camps for 4-H Club members, see §§ 37-113-29, 37-113-31.

Jackson State University, see §§ 37-125-1 et seq.

Designation of university to offer training courses required by Asbestos Abatement Accreditation and Certification Act, see § 37-138-7.

Duties of the board of trustees of the state institution of higher learning with respect to the Mississippi School for Math and Science, see § 37-139-7.

University Research Center, see §§ 37-141-1 et seq.

Approval of Board of Trustees required for formation of research corporations under Mississippi University Research Authority Act, see § 37-147-15.

Co-operation with the Mississippi Commission on Wildlife, Fisheries and Parks, see § 57-15-3.

Preparation of energy management plans, see §§ 57-39-101 et seq.

Mississippi Law Research Institute, see § 57-55-5.

Water resources research institute, see § 57-55-7.

Mississippi Mineral Resources Institute, see § 57-55-9.

Small business development center, see § 57-55-11.

Mississippi Polymer Institute, see § 57-55-13.

Mississippi Energy Research Center, see § 57-55-15.

Mississippi Urban Research Center, see § 57-55-17.

Board to create Institute of High Energy Physics and Institute for Mathematics and Computing Sciences, see § 57-67-13.

Assistance by Board of Trustees of State Institutions of Higher Learning in making relevant information available to Cooperative Extension Service for information clearinghouse assisting farmers, see § 69-2-5.

JUDICIAL DECISIONS

1. In general.
2. Employment issues.
3. Purchasing authority.

1. In general.

The Board of Trustees of State Institutions of Higher Learning is part of the executive branch of government rather than an autonomous branch of government, and thus does not constitute a fourth branch of government inconsistent with the Mississippi Constitution. Van Slyke v. Board of Trustees of State Insts. of Higher Learning, 613 So. 2d 872 (Miss. 1993).

The Board of Trustees of State Institutions of Higher Learning is an executive rather than a legislative body as indicated by the enumeration of the Board of Trustees' powers and duties contained within the Mississippi Constitution and applicable statutes; thus, appointment of the Board of Trustees by the Governor rather than the legislature is not an encroachment upon the powers of the legislative branch of the government. Van Slyke v. Board of Trustees of State Insts. of Higher Learning, 613 So. 2d 872 (Miss. 1993).

The University of Southern Mississippi is an agency of the state, controlled by a legislative grant of authority to the Board of Trustees of State Institutions of Higher Learning. Bruner v. University of S. Miss., 501 So. 2d 1113 (Miss. 1987).

This [Code 1942, § 6724] and the following sections of that chapter fix the duties of the board of trustees of state institutions. Meredith v. Fair, 202 F. Supp. 224 (S.D. Miss. 1962), motion denied, 305 F.2d 341 (5th Cir. 1962), mandate recalled, 306 F.2d 374 (5th Cir. 1962), cert. denied, 371 U.S. 828, 83 S. Ct. 49, 9 L. Ed. 2d 66 (1962), rev'd on other grounds, 305 F.2d 343 (5th Cir. 1962).

2. Employment issues.

After learning of the former professor's affair with a student at a university where he previously taught, the decision of the former president of the university and the former vice-president of academic affairs to recommend the professor for only a one-year position necessarily involved an act of choice or judgment, as by nature the president's and vice-president's administrative positions at the university required them to make those types of choices and judgments regarding the faculty, and Miss. Code Ann. § 37-101-15(f) provided that the executive head of the university nominate for election all subordinate employees of the university; nothing in the statute limited the discretion of the president and thus the action by the president and vice-president recommending the professor for one year's employment instead of tenure-track, after learning of the affair with the student, was a discretionary act immune from suit under Miss. Code Ann. § 11-46-9(1)(d). Suddith v. Univ. of S. Miss., 977 So. 2d 1158 (Miss. Ct. App. 2007), writ of certiorari denied by 977 So. 2d 1144, 2008 Miss. LEXIS 150 (Miss. 2008).

A college professor did not have a property interest protected by due process in his grant of tenure. Section 37-101-15 empowers the Board of Trustees of Institutions of Higher Learning to terminate professors' employment contracts at any time for malfeasance, inefficiency or contumacious conduct but does not create a legitimate expectation of continued employment for a non-tenured employee. If a state regulation conditions receipt of a benefit upon a discretionary decision of an administrator, there is no legitimate claim of entitlement to the benefit. Wicks v. Mississippi Valley State Univ., 536 So. 2d 20 (Miss. 1988).

The University of Southern Mississippi was not liable to an assistant coach under an employment contract which he allegedly entered into with the university's head football coach, because the head football coach was without authority to offer a valid employment contract which can only be created where the Board of Trustees of State Institutions of Higher Learning approves a nomination of the school's president, as shown upon the minutes of the board of trustees. Bruner v. University of S. Miss., 501 So. 2d 1113 (Miss. 1987).

Since, pursuant to § 37-101-15(f), state university security officer could be terminated only for cause, he had protected property interest in employment until date of expiration of his employment contract, and he was entitled to receive (1) notice of reasons for his termination and (2) effective opportunity to rebut those reasons. Robinson v. Boyer, 643 F. Supp. 975 (N.D. Miss. 1986), aff'd, 825 F.2d 64 (5th Cir. 1987).

Miss Code § 37-101-15(f), providing that the board of trustees of a state university shall have the power and authority to terminate employment contracts at any time for malfeasance, inefficiency, or contumacious conduct, but never for political reasons, did not create a reasonable expectation of continued employment for a non-tenured university employee. Montgomery v. Boshears, 698 F.2d 739 (5th Cir. 1983).

The office of secretary, treasurer and business manager of the Alcorn Agricultural and Mechanical College is not a public office within the meaning of the constitution § 175, providing exclusive method of removing a public officer. McClure v. Whitney, 120 Miss. 350, 82 So. 259 (1919).

3. Purchasing authority.

University of Mississippi Medical Center (UMC) purchasing policies are authorized by the Board of Trustees by virtue of the authority bestowed upon them by the legislature and, therefore, are not merely internal policies. Whether for a purchase or a lease, certain procedures are required by statute for letting a contract with the State of Mississippi. Board of Trustees of State Insts. of Higher Learning v. Peoples Bank, 538 So. 2d 361 (Miss. 1989).

In a proceeding instituted by the state building commission to enjoin the board of trustees of state institutions of higher learning from using self-generated funds, as distinguished from legislatively appropriated funds, to construct facilities at the institutions under its supervision without the approval of and control by the building commission, the chancery court properly dissolved a temporary injunction and dismissed the bill of complaint although it should have relied upon Miss Const § 213-A, which gives the board of trustees management and control of the institutions under its supervision, as well as upon § 37-101-15, which sets out the general powers and duties of the board. The powers and duties granted to the building commission under § 31-11-3 apply only to management and control of funds legislatively appropriated to both agencies, while the management and control of self-generated funds remain with the constitutionally organized board of trustees. State ex rel. Allain v. Board of Trustees of

Insts. Of Higher Learning, 387 So. 2d 89 (Miss. 1980).

ATTORNEY GENERAL OPINIONS

Endowment funds donated directly to universities, as opposed to funds contributed to private development foundations established to raise money for universities, are public trust funds for which the Board of Trustees of State Institutions of Higher Learning (IHL) may be held liable in case of any loss of funds. For this reason, the IHL should consider limiting the investment of such funds to the types enumerated in the statutes to protect against possible loss and liability therefor. McLeod, January 16, 1998, A.G. Op. #97-0811.

Universities may lease property to private foundations for their use if such action is in the best interest of and furthers the missions of the universities; there should be rental or lease agreements memorializing the arrangements between the universities and the foundations, and consideration for the leases may take the form of payments in cash or such other benefit to the universities as may arise from the arrangements. Bryant, November 6, 1998, A.G. Op. #98-0676.

Jackson State University is authorized to impose reasonable fees upon students from the School of Social Work in connection with the performance of services for other entities as part of a practice component of the students' curricula and, it may, in making arrangements with outside entities to provide practice opportunities, require participating students to pay reasonable membership fees, which include liability coverage, as part of its agreement with such entities. Clark, May 14, 1999, A.G. Op. #99-0184.

RESEARCH REFERENCES

ALR. Student's right to compel school officials to issue degree, diploma, or the like. 11 A.L.R.4th 1182.

College's power to revoke degree. 57 A.L.R.4th 1243.

Am Jur. 4 Am. Jur. Legal Forms 2d, Colleges and Universities §§ 60:81 et seq. (governing body).

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J. 263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-101-16. Development and implementation of system of manpower management.

The board of trustees of state institutions of higher learning shall develop a system of manpower management which shall be implemented in all institutions under the control of the board. The manpower management system shall be so designed to insure accurate and rapid reporting of all manpower positions within each institution by job classification to include position number and title, grade, salary and fringe benefits, name of incumbent, social security number and date of hire.

SOURCES: Laws, 1977, ch. 355; Laws, 1984, ch. 488, § 201, eff from and after July 1, 1984.

Cross References — Affect of any member of a board, commission, council or authority changing domicile after appointment, see § 7-13-9.

§ 37-101-17. Repealed.

Repealed by Laws, 1983, ch. 469, § 10, eff from and after July 1, 1983. [Codes, 1930, § 7308; 1942, § 6791; Laws, 1924, ch. 284]

Editor's Note — Former § 37-101-17 prohibited board members, officers and agents from having any interest in or a party to any contract with the institution with which they were connected for materials or supplies.

§ 37-101-19. Marine research laboratory.

The Board of Trustees of State Institutions of Higher Learning is hereby authorized and empowered to establish and maintain a marine research laboratory on lands belonging to the State of Mississippi, said lands being a part of the Magnolia State Park in Jackson County, Mississippi, and to be assigned for the use of such laboratory by the Mississippi Department of Marine Resources.

The marine research laboratory may, in the discretion of the Board of Trustees of State Institutions of Higher Learning, be operated by the Mississippi Academy of Science, Inc., under the supervision and control of the Board of Trustees of State Institutions of Higher Learning.

The Board of Trustees of State Institutions of Higher Learning is hereby authorized and empowered to expend annually out of its regular appropriation for the support and maintenance of institutions of higher learning a sum not exceeding Five Thousand Dollars ($5,000.00) for the support and maintenance of the marine research laboratory.

SOURCES: Codes, 1942, § 6725-02; Laws, 1948, ch. 283, §§ 1-3; Laws, 2000, ch. 516, § 9, eff from and after passage (approved Apr. 30, 2000.)

Editor's Note — Section 55-3-31 provides that the words "Mississippi Park Commission" shall mean the Mississippi Department of Wildlife, Fisheries and Parks.

Cross References — Gulf Coast Research Laboratory, see § 37-101-21.

Marine Resources Council generally, see §§ 57-15-1 et seq.

§ 37-101-21. Gulf Coast Research Laboratory.

A body politic and corporate is hereby created under the name of Gulf Coast Research Laboratory, to have perpetual succession, with powers to contract and be contracted with; to receive and acquire, by any legal method, property of any description, necessary or convenient for its operation, and to hold, employ, use and convey the same; to adopt and use a corporate seal; and to adopt by-laws, rules and regulations for the government of the same, its employees, officials, agents, and members.

The object and purposes of the Gulf Coast Research Laboratory shall be to promote the study and knowledge of science including the natural resources of the State of Mississippi and to provide for the dissemination of research findings and specimens from the Gulf Coast area.

The Gulf Coast Research Laboratory shall be under the control and supervision of the board of trustees of state institutions of higher learning, and the powers of said laboratory shall be vested in and its duties performed by said board.

The laboratory shall be located at some appropriate place within the state and on the Gulf of Mexico to be determined by the board of trustees of state institutions of higher learning.

It shall be the duty of the board of trustees of state institutions of higher learning to appoint or elect a director for said laboratory, determine the number of instructors, assistants and other employees and fix their compensation, and in cooperation with the Mississippi Academy of Science, prescribe rules, regulations, and policies governing the operation of the institution, qualifications of instructors and employees and for the admission of students, and for the direction of research programs.

SOURCES: Codes, 1942, § 6725-05; Laws, 1950, ch. 216, §§ 1-5.

Cross References — Creation of Marine Research Laboratory, see § 37-101-19.

Director of gulf coast research laboratory being member of Commission on Wildlife, Fisheries and Parks, see § 49-15-11.

Marine Resources Council generally, see §§ 57-15-1 et seq.

ATTORNEY GENERAL OPINIONS

The Board of Trustees of Institutions of Higher Learning may accept donations of real and personal property for the benefit of the institutions of higher learning over which it has control and supervision. Layzell, April 30, 1998, A.G. Op. #98-0230.

The Board of Trustees of Institutions of Higher Learning may expend public funds to construct facilities for the Gulf Coast Research Laboratory upon the Cedar Point property. Layzell, April 30, 1998, A.G. Op. #98-0230.

§ 37-101-23. Establishment of Mississippi Small Farm Development Center; offices and officers; functions generally.

(1) The Mississippi Small Farm Development Center, which shall be referred to in this section as the SFDC, is established under the management and control of the Board of Trustees of State Institutions of Higher Learning. The principal offices of the SFDC shall be located at Alcorn State University and shall be under the direction of the president of the university subject to the governance of the board of trustees. The president shall appoint a director of the SFDC who shall recommend to the president necessary professional and administrative staff of the center, all subject to the approval of the board of trustees.

(2) It shall be the function and duty of the SFDC to:

(a) Develop a system to deliver management and technical assistance to small farms utilizing the resources of local, state and federal government programs, various segments of the private sector, and universities and colleges throughout the state;

(b) Make management and technical assistance available to small farms by linking together with the above resources;

(c) Research and develop small farm opportunities for new or alternative crops;

(d) Develop a clearinghouse for the collection and dissemination of agricultural and economic data; and

(e) Assist small farms in developing more efficient marketing and distribution channels, including foreign trade marketing.

SOURCES: Laws, 1988, ch. 358, eff from and after July 1, 1988.

§ 37-101-25. Development by center of plan to foster certain small enterprises.

The Mississippi Small Farm Development Center shall develop a plan to foster and encourage the development in this state of small enterprises which process "cash crops," timber, or food and fiber products produced in Mississippi. The plan shall include, but not be limited to:

(a) Means to identify small entrepreneurs who are in the business of processing, or are interested in starting a business to process, "cash crops," timber, or food and fiber products;

(b) Means to encourage participation by such small entrepreneurs in available business management and technical assistance programs; and

(c) Any appropriate financial assistance to assist such small entrepreneurs in financing their business, such as interest-free state loans similar to existing Department of Economic and Community Development programs administered out of the Emerging Crops Fund.

SOURCES: Laws, 1992, ch. 548 § 12, eff from and after passage (approved May 14, 1992).

§ 37-101-27. Creation of Ayers Endowment Trust.

(1) There is created within the Working Cash-Stabilization Reserve Fund in the State Treasury a trust to be known as the Ayers Endowment Trust, which shall be used as provided in this section. On July 1, 1997, Fifteen Million Dollars ($15,000,000.00) in the Working Cash-Stabilization Reserve Fund shall be set aside and placed in the Ayers Endowment Trust.

(2) The principal of the Ayers Endowment Trust shall remain inviolate within the Working Cash-Stabilization Reserve Fund, and shall be invested in the same manner as the remainder of the Working Cash-Stabilization Reserve Fund.

(3) The interest and income earned from the investment of the principal of the Ayers Endowment Trust shall be appropriated by the Legislature to the

Board of Trustees of State Institutions of Higher Learning for the benefit of Jackson State University, Alcorn State University and Mississippi Valley State University, the historically black institutions of higher learning in Mississippi, with one-third (1/3) of the amount of the interest and income earned being allocated for the benefit of each of those universities. The money allotted for each university shall be used for continuing educational enhancement and racial diversity, including recruitment of white students and scholarships for white applicants.

(4) The creation of the Ayers Endowment Trust and the appropriation of the interest and income for the purposes specified in this section shall be to comply with the order of the United States District Court in the case of *Ayers v. Fordice*, 879 F. Supp. 1419 (N.D. Miss. 1995), with regard to Jackson State University and Alcorn State University, and to provide Mississippi Valley State University with an equal amount of funding for the same purposes as for the other historically black institutions of higher learning.

(5) If the United States District Court for the Northern District of Mississippi approves and directs the implementation of a settlement agreement in the case of Ayers v. Musgrove (Civil Action No. 4:75CV9-B-D, in the United States District Court for the Northern District of Mississippi), and if the agreement becomes final and effective according to its terms (including, but not limited to, the exhaustion of all rights of appeal) before the first day of the 2005 Regular Session of the Legislature, there shall be created in the State Treasury a fund to be known as the Ayers Settlement Fund. Monies deposited into the Ayers Settlement Fund under Section 27-103-203(2) shall be appropriated by the Legislature to the Board of Trustees of State Institutions of Higher Learning for the purpose of establishing a public endowment for the benefit of Jackson State University, Alcorn State University and Mississippi Valley State University in compliance with the settlement agreement.

(6) If the Ayers Settlement Fund is created under subsection (5) of this section, subsection (1) through (4) of this section shall be repealed when the Ayers Endowment Trust reaches Zero Dollars ($0.00) in accordance with Section 27-103-203(3).

SOURCES: Laws, 1997, ch. 583, § 1; Laws, 2001, ch. 520, § 1; Laws, 2002, ch. 443, § 1; Laws, 2003, ch. 329, § 1; Laws, 2004, ch. 435, § 1, eff from and after July 1, 2004.

Editor's Note — The settlement agreement in the case of *Ayers v. Musgrove* was signed by all parties on March 29, 2001, approved by the District Court, and affirmed by the 5th Circuit Court of Appeals in *Ayers v. Thompson,* 358 F.3d 356 (5th Cir. 2004). The U.S. Supreme Court denied a writ of certiorari in October 2004.

Laws of 2001, ch. 520, was House Bill No. 1471, 2001 Regular Session, and originally passed both Houses of the Legislature on March 24, 2001. The Governor vetoed House Bill 1471 on March 30, 2001. The veto was overridden by the State Senate and by the State House of Representatives on March 30, 2001.

Laws of 2001, ch. 520, § 3, provides:

"SECTION 3. This act shall take effect and be in force from and after passage; however, if House Bill No. 776, 2001 Regular Session, becomes law, this act shall take effect and be in force from and after one (1) day after the date on which House Bill No.

776, 2001 Regular Session, becomes law." House Bill No. 776 (ch. 518) became law on March 30, 2001.

Cross References — Working Cash-Stabilization Reserve Fund, see § 27-103-203.
Alcorn State University, see §§ 37-121-1 et seq.
Jackson State University, see §§ 37-125-1 et seq.
Mississippi Valley State University, see §§ 37-127-1 et seq.

§ 37-101-28. Repealed.

Repealed by Laws, 2011, ch. 511, § 4, effective from and after passage (approved April 26, 2011).

§ 37-101-28. [Laws, 2003, ch. 330, § 1, eff from July 1, 2003.]

Editor's Note — Former § 37-101-28 provided for articulation agreements on dual credit courses taken by high school students. For present similar provisions, see § 37-15-38.

§ 37-101-29. Performance reports; teacher education programs; contents; compilation of reports.

Each institution of higher learning with a teacher education program approved by the State Board of Education shall prepare and submit to the State Board of Education and to the Board of Trustees of State Institutions of Higher Learning an annual performance report on the institution's teacher education program. The report shall include the following information:

(a) Teacher enrollment data;

(b) Professional education faculty data;

(c) Characteristics of students receiving initial licensure;

(d) Number and percentage of program completers scoring at or above the proficiency level on the prescribed teacher education exit tests;

(e) Satisfaction rate of employers and graduates;

(f) Follow-up profiles of graduates of the teacher education program; and

(g) Any other information required by the State Board of Education. Before requiring any other information, the State Board of Education shall conduct collaborative planning activities with the Mississippi Association of Colleges of Teacher Education and the Board of Trustees of State Institutions of Higher Learning.

The State Department of Education, in collaboration with the Mississippi Association of Colleges of Teacher Education and the Board of Trustees of State Institutions of Higher Learning, shall prepare a common form for the preparation and submission of the annual performance reports. The State Department of Education shall establish the date by which such reports must be submitted to the board. No later than sixty (60) days after the deadline date established for the submission of reports, the department shall submit a compilation of all annual performance reports received from the state institutions of higher learning to the Chairmen of the Education Committees of the House of Representatives and the Senate.

SOURCES: Laws, 1998, ch. 544, § 11, eff from and after passage (approved April 13, 1998).

Editor's Note — Laws of 1998, ch. 544, which enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1, may be cited as the "Mississippi Critical Teacher Shortage Act of 1998" pursuant to Section 37-159-1.

The preamble to Laws of 1998, ch. 544, provides in pertinent part:

"WHEREAS, in many rural areas and communities in the State of Mississippi, particularly in the Mississippi Delta, there exists a critical shortage of qualified teachers that continues to grow at an increasing rate as the number of teachers in those areas who are eligible for retirement escalates while fewer college students aspire to a career in teaching; and

"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

§ 37-101-30. Retirement incentive program; legislative findings; definitions; monetary incentive; eligibility; rules and regulations.

(1) The Legislature finds and declares that a compelling state interest exists in providing a retirement incentive program or encouraging the retirement of those employees of institutions of higher learning who are current and active contributing members of the Public Employees' Retirement System.

(2) As used in this section:

(a) "Board" means the Board of Trustees of State Institutions of Higher Learning.

(b) "Program" means the retirement incentive program established under this section.

(3)(a) The board is authorized to pay, in fiscal years selected by the board, a monetary incentive to employees who are eligible for retirement in exchange for a voluntary agreement of the employee:

(i) To retire on a specific date as set forth in subsection (6) of this section, and

(ii) To waive any and all claims, known or unknown, arising out of or related to employment or cessation of employment at institutions of higher learning.

(b) The granting of additional compensation shall be made in exchange for additional consideration given by the employee.

(c) The retirement incentive authorized by this section is a voluntary plan for institutions of higher learning faculty and staff offering an incentive for retirement. The plan shall be available to all full-time faculty and staff who meet the eligibility criteria set forth in subsection (4) of this section.

(4)(a) To be eligible to participate in the program, full-time faculty and staff of institutions of higher learning must, as of the effective date of their retirement, be eligible to retire under the laws governing the Public Employees' Retirement System by virtue of:

(i) Having twenty-five (25) years of creditable service, or

(ii) Being age sixty (60) and having at least four (4) years of creditable service.

(b) The institution of higher learning offering the program shall, in all cases, utilize the records of the Public Employees' Retirement System as the source for determining eligibility.

(c) The program is offered as an alternative to any other retirement incentive plan that may be offered by the state or the Public Employees' Retirement System in the future.

(5) In accordance with applicable law, the institution of higher learning shall provide a cash benefit to each participant in the program based upon a percentage of the participant's current salary that is subject to federal income tax, state income tax and Federal Insurance Contributions Act withholding. The participant shall be compensated for unused annual leave as otherwise provided by law. The cash benefit paid under this section shall not be subject to employer or employee contributions under the laws governing the Public Employees' Retirement System.

(6) Eligible employees shall make their election to participate in the program in the manner and at the time prescribed by the board. The date of retirement for all employees participating in this program shall be June 30 of any fiscal year in which the program is offered. Employees electing to participate in the program shall agree to waive any claims, known or unknown, arising out of or related to employment or cessation of employment at institutions of higher learning. An employee may revoke the election to participate in the program within seven (7) days after the execution of the election.

(7) The additional compensation authorized under the program is made in exchange for additional consideration given by the employee.

(8) The board shall prescribe such rules and regulations as it shall consider necessary to carry out the purposes of this section.

SOURCES: Laws, 2002, ch. 627, § 1, eff from and after passage (approved Apr. 25, 2002.)

ATTORNEY GENERAL OPINIONS

The Board of Trustees of State Institutions of Higher Learning is authorized to adopt a retirement incentive program for employees of the Board offices and to make retirement incentive payments to employees of the Board offices pursuant to Section 37-101-30. Potter, May 14, 2003, A.G. Op. 03-0239.

RESERVE FUND TO GUARANTEE PAYMENT OF STUDENT LOANS

SEC.
37-101-31. Establishment by board.

§ 37-101-31. Establishment by board.

In addition to the powers vested in the board of trustees of state institutions of higher learning by Section 213-A, Mississippi Constitution of 1890 and by this chapter, said board is hereby authorized to establish a reserve fund to receive funds from state, federal or private sources for the purpose of guaranteeing payment of loans obtained by college or university students from public or private lenders or banking institutions. The board is authorized and empowered to do and perform all the necessary and requisite acts and deeds necessary to carry out the provisions of this section.

SOURCES: Codes, 1942, § 6724.3; Laws, 1966, ch. 433, § 1; Laws, 1968, ch. 385, §§ 1, 2, eff from and after passage (approved February 27, 1968).

CONSTRUCTION OF HOUSING AND DORMITORY FACILITIES BY PRIVATE FINANCING

SEC.
37-101-41. Authority to lease land at certain institutions for construction, renovation, furnishing, maintaining and equipping of auxiliary facilities by private financing; lease terms; compliance with certain building code standards; maximum percentage of land to be leased; authority to enter into agreements in connection with operations of auxiliary facilities.
37-101-42. Creation of advisory committee for lease of certain property to private developers; membership.
37-101-43. Employment of architect; preparation of plans and specifications for facility; awarding of lease contract; exemptions.
37-101-44. Authorization to contract with single entity for privately financed design and construction or renovation and maintaining, furnishing and equipping of facilities; administration of design-build delivery system.
37-101-45. Lessee's rights and remedies.
37-101-47. Leases deemed legal investments.

§ 37-101-41. Authority to lease land at certain institutions for construction, renovation, furnishing, maintaining and equipping of auxiliary facilities by private financing; lease terms; compliance with certain building code standards; maximum percentage of land to be leased; authority to enter into agreements in connection with operations of auxiliary facilities.

(1)(a) Except as otherwise provided in paragraph (b) of this section, and subject to the provisions of Section 37-101-42, the Board of Trustees of State Institutions of Higher Learning (the "board") is authorized and empowered to lease to private individuals or corporations for a term not exceeding thirty-five (35) years any land or land with existing auxiliary facilities at any of the following state-supported institutions: Mississippi State University of Agriculture and Applied Science, Jackson State University, Mississippi Valley State University, University of Mississippi, Alcorn State University, University of Southern Mississippi, Mississippi University for Women and Delta State University, for the purpose of erecting or renovating, furnishing, maintaining and equipping auxiliary facilities thereon for active faculty, staff and/or students. The auxiliary facilities shall be constructed or renovated, and may be furnished, maintained and equipped thereon by private financing, and may be leased back to the board for use by the concerned state-supported institution of higher learning. The lease shall contain a provision permitting the board to purchase the building located thereon, including any furnishings and equipment therein, for the sum of One Dollar ($1.00) after payment by the board of all sums of money due under said lease.

(b) The Board of Trustees of State Institutions of Higher Learning may grant authority to universities to lease to private individuals or corporations for a period not exceeding thirty-five (35) years, any land or land with existing auxiliary facilities at the university, for the purpose of erecting or renovating, furnishing, maintaining and equipping auxiliary facilities thereon for active faculty, staff and/or students. The auxiliary facilities shall be constructed or renovated, and may be furnished, maintained and equipped thereon by private financing, and may be leased back to the board for use by the university. The lease shall contain a provision permitting the board to purchase the auxiliary facilities located thereon, including any furnishings and equipment therein, for the sum of One Dollar ($1.00) after payment by the board of all sums of money due under the lease.

(2) Upon there being an agreement reached between the Board of Trustees of State Institutions of Higher Learning and a university upon whose land the auxiliary facility will be constructed or renovated and a private individual (s) or corporation (s) to enter into such lease agreement as described in subsection (1), it shall be stipulated in the agreement that all newly constructed or renovated auxiliary facilities shall be in compliance with the minimum building code standards employed by the state as required under Section 31-11-33.

(3) The board, in conjunction with the university, shall have sole discretion to decide the placement of new auxiliary facilities upon the university's campus. However, the scope of any such construction or renovation by private entities shall be limited to two (2) leases entered into pursuant to this Section 37-101-41 per year for each university, and shall not exceed in the aggregate twenty-five percent (25%) of the university's total main campus or satellite campus property under the original lease period. In addition, the scope of any such renovation by private entities shall be limited to one (1) project per fiscal year for each university.

(4) No contractual lease agreement for the construction or renovation, furnishing, maintaining and equipping of privately financed auxiliary facilities shall be entered into by a university without prior approval of the Board of

Trustees of State Institutions of Higher Learning. An auxiliary facility is a facility that is described by the current Postsecondary Education Facilities Inventory and Classification Manual (FICM) as within categories 500/600/700/800/900.

Before entering into contractual lease agreement s for the construction or renovation, furnishing, maintaining and equipping of privately financed auxiliary facilities, the Board of Trustees of State Institutions of Higher Learning shall establish rules and procedures to ensure adequate public advertisement of any requirement for the construction or renovation, furnishing, maintaining and equipping of privately financed auxiliary facilities at a university in order to promote full and open competition and which set forth the requirements for evaluation of offers and award of the contract lease agreement to the private entity.

(5) In addition to the above stated authority, the university, with the permission of the board, is authorized to enter into such marketing, support, management, operating, cooperating or other similar agreements as the university and board may deem advisable or prudent in connection with the ongoing operations of such auxiliary facilities for a period not to exceed the term of the lease relating to such auxiliary facilities.

SOURCES: Codes, 1942, § 6724.5; Laws, 1966, ch. 671, § 1; Laws, 1968, ch. 413, § 1; Laws, 1977, ch. 347; Laws, 2006, ch. 551, § 1; Laws, 2007, ch. 424, § 1; Laws, 2007, ch. 494, § 6; Laws, 2009, ch. 565, § 1, eff from and after passage (approved May 13, 2009.)

Joint Legislative Committee Note — Section 1 of ch. 424, Laws of 2007, effective from and after July 1, 2007 (approved March 20, 2007), amended this section. Section 6 of ch. 494, Laws of 2007, effective July 1, 2007 (approved March 27, 2007), also amended this section. As set out above, this section reflects the language of Section 6 of ch. 494, Laws of 2007, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date shall supersede all other amendments to the same section approved on an earlier date.

Cross References — State bidding procedures generally, see § 31-7-13.

Exemption from taxation of leases, lease contracts, etc. of or with respect to property constituting all or part of auxiliary facility, and related real property, constructed or renovated pursuant to this section, see § 27-31-1.

§ 37-101-42. Creation of advisory committee for lease of certain property to private developers; membership.

There is created an advisory committee to the Board of Trustees of State Institutions of Higher Learning for the lease of the property described in Sections 37-101-41, 37-101-43 and 37-101-44, which shall be composed of the following members:

(a) The respective Chairmen of the Public Property Committees of the House of Representatives and the Senate;

(b) The respective Chairmen of the Universities and Colleges Committees of the House of Representatives and the Senate;

(c) One (1) member of the House of Representatives, to be appointed by the Speaker of the House; and

(d) One (1) member of the Senate, to be appointed by the Lieutenant Governor.

Before selecting the private developer to which to lease the property described in Sections 37-101-41, 37-101-43 and 37-101-44, and while negotiating the terms of the lease with the private developer that has been selected, the Board of Trustees of State Institutions of Higher Learning shall consult with the advisory committee and consider any suggestions and recommendations made by the advisory committee regarding the lease of the property.

SOURCES: Laws, 2007, ch. 494, § 9, eff from and after July 1, 2007.

§ 37-101-43. Employment of architect; preparation of plans and specifications for facility; awarding of lease contract; exemptions.

(a) Except as otherwise provided in Section 37-101-44, and subject to the provisions of Section 37-101-42, before entering into or awarding any such lease contract under the provisions of Section 37-101-41, the Board of Trustees of State Institutions of Higher Learning shall cause the interested state-supported institution upon which a facility is proposed to be constructed or renovated to select and submit three (3) architects to the board. Thereupon, the board shall approve and employ an architect, who shall be paid by the interested institution from any funds available to the interested institution. The architect, under the direction of the interested institution, shall prepare complete plans and specifications for the facility or facilities desired to be constructed or renovated on the leased property.

Upon completion of the plans and specifications and the approval thereof by the board, and before entering into any lease contract, the board shall cause to be published once a week for at least three (3) consecutive weeks and not less than twenty-one (21) days in at least one (1) newspaper having a general circulation in the county in which the interested institution is located and in one (1) newspaper with a general statewide circulation, a notice inviting bids or proposals for the leasing, construction or renovation, including the furnishing, maintaining and equipping, if applicable, and leasing back, if applicable, of the land and constructed or renovated facility, including any applicable furnishings or equipment, of the facility to be constructed or renovated in accordance with the plans and specifications. The notice shall distinctly state the thing to be done, and invite sealed proposals, to be filed with the board, to do the thing to be done. The notice shall contain the following specific provisions, together with such others as the board in its discretion deems appropriate, to wit: bids shall be accompanied by a bid security evidenced by a certified or cashier's check or bid-bond payable to the board in a sum of not less than five percent (5%) of the gross construction cost of the facility to be constructed as estimated by the board and the bids shall contain proof satisfactory to the board of interim and permanent financing. The board shall state in the notice when construction shall commence. The bid shall contain the proposed contractor's certificate of responsibility number and bidder's license. In all cases, before the notice shall be published, the plans and specifications shall be filed with the board and also in the office of the president of the interested institution, there to remain.

The board shall award the lease contract to the lowest and best bidder, who will comply with the terms imposed by the contract documents. At the time of the awarding of the lease contract the successful bidder shall enter into bond with sufficient sureties, to be approved by the board, in such penalty as may be fixed by the board, but in no case to be less than the estimated gross construction or renovation cost of the facility to be constructed or renovated as estimated by the board, conditioned for the prompt, proper and efficient performance of the contract. The bond shall be made by an authorized corporate surety bonding company. The bid security herein provided for shall be forfeited if the successful bidder fails to enter into lease contract and commence construction or renovation within the time limitation set forth in the notice. At such time, and simultaneously with the signing of the contract, the successful bidder shall deposit a sum of money, in cash or certified or cashier's check, not less than the bid security previously deposited as bid security to reimburse the interested institution for all sums expended by it for architectural services and other expenditures of the board and interested institution connected with the bidded lease contract, of which such other anticipated expenditures notice is to be given to bidder in the notice. The bid security posted by an unsuccessful bidder shall be refunded to him.

(b) Under the authority granted under Section 37-101-44, the requirements of paragraph (a) of this section shall not apply to the Board of Trustees of State Institutions of Higher Learning 's power to grant to universities the authority to contract with a single entity for privately financed design and construction or renovation, and if applicable, the furnishing, maintaining and equipping of facilities on university campuses, and if applicable, the furnishing, maintenance and equipping of facilities on university campuses.

SOURCES: Codes, 1942, § 6724.5-01; Laws, 1968, ch. 413, § 2; Laws, 2007, ch. 494, § 5; Laws, 2009, ch. 565, § 2, eff from and after passage (approved May 13, 2009.)

Cross References — Exception of Board of Trustees of State Institutions of Higher Learning from compliance with master lease purchase agreement regarding bids on equipment, etc., see § 31-7-13.

§ 37-101-44. Authorization to contract with single entity for privately financed design and construction or renovation and maintaining, furnishing and equipping of facilities; administration of design-build delivery system.

(1) In lieu of exercising the authority set forth in Section 37-101-43 and before entering into or awarding any lease under Section 37-101-41, the Board of Trustees of State Institutions of Higher Learning, subject to the provisions of Section 37-101-42, may award contracts to a single entity for privately financed design and construction or renovation of facilities on university campuses, as well as for maintaining, furnishing and equipping of such facilities, if the entities receiving the contract or contracts and those entities to which work or services are subcontracted are duly licensed and qualified in the state to perform the contract or contracts. State General Fund appropriations or bonds backed by the state may not be used to finance the construction or maintenance of any such facility.

(2) The design-build delivery system described under subsection (1) of this section shall be administered pursuant to Section 31-7-13.1 and may be authorized only when the Board of Trustees of State Institutions of Higher Learning makes a determination, entered on its minutes, with specific findings for the project demonstrating how it is in the best interest of the public to enter into a design-build contract.

SOURCES: Laws, 2007, ch. 494, § 4; Laws, 2009, ch. 565, § 3, eff from and after passage (approved May 13, 2009.)

Cross References — Dual-phase design-build method of construction contracting, see § 31-7-13.1.

§ 37-101-45. Lessee's rights and remedies.

Any holder of lease rights arising under the provisions of Section 37-101-41, either at law or in equity, by suit, action, or other proceeding, may protect and enforce any and all rights granted thereunder, or under the resolution pursuant to which such lease was signed, or under said lease, and may enforce and compel performance of all duties required by said section to be performed, in order to provide for the payment of the lease obligations set out in said lease.

SOURCES: Codes, 1942, § 6724.5-02; Laws, 1968, ch. 413, § 3, eff from and after passage (approved July 19, 1968).

§ 37-101-47. Leases deemed legal investments.

Any leases executed under the provisions of Section 37-101-41 shall be legal investments for trustees and other fiduciaries, and for banks, trust companies, and insurance companies authorized to do business in the State of Mississippi.

SOURCES: Codes, 1942, § 6724.5-03; Laws, 1968, ch. 413, § 4, eff from and after passage (approved July 19, 1968).

EDUCATIONAL BUILDING CORPORATIONS

SEC.	
37-101-61.	Authorization and procedure for organization of nonprofit educational building corporations.
37-101-63.	General powers of corporations.
37-101-65.	Issuance of bonds.
37-101-67.	Liability on bonds.
37-101-69.	Bonds as legal investments.
37-101-71.	Lease of facilities by board of trustees; vesting of title to facilities upon retirement of bonds.

§ 37-101-61. Authorization and procedure for organization of nonprofit educational building corporations.

Whenever the board of trustees of state institutions of higher learning of the state of Mississippi shall by a proper resolution declare the necessity of the formation of nonprofit corporations for the purpose of acquiring or constructing facilities for institutions of higher learning under the jurisdiction and control of said board, any number of natural persons, not less than three (3), who are residents of the State of Mississippi, may file with the Secretary of State of this state and application in writing for authority to incorporate a public nonprofit corporation, known as an "educational building corporation." If it shall be made to appear that each of said persons is a duly qualified resident of this state, then the persons filing such application shall be authorized, subject to the prior approval by said board of the form of the articles of incorporation and bylaws thereof, to proceed to form such corporation as provided by the general law of this state with respect to corporations organized not for profit except as hereinafter provided. The secretary of state, upon receipt of such application, shall forthwith issue a certificate of incorporation.

SOURCES: Codes, 1942, § 6724.5-11; Laws, 1968, ch. 271, § 1; Laws, 1984, ch. 391, § 1, eff from and after passage (approved April 18, 1984).

ATTORNEY GENERAL OPINIONS

Educational building corporations (EBCs), are alter egos of the Board of Trustees of State Institutions of Higher Learning and are subject to the purchasing laws of the state of Mississippi in contracting for the acquisition and construction of EBC projects. Mason, Jan. 5, 2004, A.G. Op. 03-0656.

§ 37-101-63. General powers of corporations.

Each corporation formed under the provisions of Section 37-101-61 shall have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form: to have succession by its corporate name for the duration of time (which may be in perpetuity) specified in its certificate of incorporation; to sue and be sued and to defend suits against it; to make use of a corporate seal and to alter it at pleasure; to acquire, whether by purchase, construction or gift, facilities for one or more institutions of higher learning and land therefor; to equip, maintain, enlarge or improve such facilities; to lease under such terms and conditions as its board of directors may deem advisable and as shall not conflict with the provisions of Sections 37-101-61 through 37-101-71 to the board of trustees of state institutions of higher learning or to such other entity as may be approved by such board subject to prior approval by said board of each issue of bonds; to issue its bonds for the purpose of defraying the cost of acquiring, constructing, maintaining, enlarging, improving or equipping any of such facilities or land in the manner provided in Section 37-101-65; to secure the payment of such bonds through the pledge of and lien on such revenues or other sources of income, including lease payments, entering into trust agreements, and the making of such covenants as are provided in Section 37-101-101; to refund bonds previously issued; to enter into contracts and agreements or do any act necessary for or incidental to the performance of its duties and the execution of its powers under Sections 37-101-61 through 37-101-71; to accept gifts from any source whatsoever; to appoint and employ such officers and agents, including attorneys, as its business may require; and to provide for such insurance as its board of directors may deem advisable.

SOURCES: Codes, 1942, § 6724.5-12; Laws, 1968, ch. 271, § 2; Laws, 1984, ch. 391, § 2, eff from and after passage (approved April 18, 1984).

ATTORNEY GENERAL OPINIONS

Bond proceeds may only be expended for the purposes set forth in this section and security for such indebtedness is likewise limited to the security authorized in this section. No public properties may be used to secure any indebtedness of educational building corporations. Mason, Jan. 5, 2004, A.G. Op. 03-0656.

§ 37-101-65. Issuance of bonds.

All bonds issued by an educational building corporation may be executed and delivered at any time and from time to time, may be in such form and denominations, may be of such tenor, may be payable in such installments and at such time or times not exceeding thirty (30) years from their date, may be payable at such place or places, may bear interest at such rate or rates payable at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, all as may be provided by resolution of its board of directors. The bonds issued by any such corporation shall be signed by the chairman of its board of directors or other chief executive officer and attested by its secretary, and the seal of such corporation shall be affixed thereto. Any such bonds may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors to be most advantageous, and the corporation may pay all expenses, premiums and commissions which its board of directors may deem necessary or advantageous in connection with the authorization, sale and issuance thereof. All such bonds shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

SOURCES: Codes, 1942, § 6724.5-13; Laws, 1968, ch. 271, § 3; Laws, 1984, ch. 391, § 3, eff from and after passage (approved April 18, 1984).

§ 37-101-67. Liability on bonds.

All bonds issued by an educational building corporation shall be solely and exclusively obligations of the corporation and shall not create an obligation or debt of the State of Mississippi. The state shall not pledge its full faith or credit for the payment of any debt incurred or bonds issued by such corporation.

All such bonds shall not constitute a debt of the college or university for which the facilities are to be constructed.

SOURCES: Codes, 1942, §§ 6724.5-14, 6724.5-14; Laws, 1968, ch. 271, §§ 3, 4; Laws, 1984, ch. 391, § 4, eff from and after passage (approved April 18, 1984).

§ 37-101-69. Bonds as legal investments.

All bonds issued by an educational building corporation shall be lawful investments for trusts, insurance companies, savings companies, banks, and other financial institutions organized under the laws of this state.

SOURCES: Codes, 1942, § 6724.5-14; Laws, 1968, ch. 271, § 4, eff from and after passage (approved August 7, 1968).

§ 37-101-71. Lease of facilities by board of trustees; vesting of title to facilities upon retirement of bonds.

The board of trustees of state institutions of higher learning of the State of Mississippi is hereby authorized and empowered, in its discretion, to pass proper resolutions declaring the necessity of the formation of nonprofit educational building corporations, as set forth in Section 37-101-61, and to lease facilities from said corporations in the manner provided by law.

When the principal of and the interest on any bonds of an educational building corporation payable from the revenues derived from the operation of facilities owned by such corporation shall have been paid in full, then such facilities shall thereupon become the property of the board of trustees of state institutions of higher learning and title to the facilities shall thereupon immediately vest in the State of Mississippi.

SOURCES: Codes, 1942, §§ 6724.5-13, 6724.5-15; Laws, 1968, ch. 271, §§ 3, 5, eff from and after passage (approved August 7, 1968).

INSTITUTIONS OF HIGHER LEARNING REPAIR AND RENOVATION FUND

Sec.
37-101-81. Institutions of Higher Learning Repair and Renovation Fund.

§ 37-101-81. Institutions of Higher Learning Repair and Renovation Fund.

There is hereby created in the State Treasury a special fund to be designated as the "Institutions of Higher Learning Repair and Renovation Fund" which shall consist of monies appropriated or otherwise made available therefor by the Legislature. Interest earned on monies in the special fund shall be deposited to the credit of such fund and money shall not lapse at the end of the fiscal year into the State General Fund. Money in the special fund shall be appropriated by the Legislature and allocated by the Bureau of Building, Grounds and Real Property Management, Department of Finance and Administration, for the repair, renovation and improvement of existing facilities under the control of the state institutions of higher learning, including utility infrastructure projects; heating, ventilation and air conditioning systems; and the replacement of furniture and equipment. However, the cost of such repair, renovation and improvement for any one project shall not exceed One Million Dollars ($1,000,000.00). For the purposes of this section, the term "furniture and equipment" shall be limited to the types of furniture and equipment items previously recorded in the institution's inventory.

SOURCES: Laws, 1999, ch. 334, § 1, eff from and after passage (approved Mar. 12, 1999.)

Cross References — State Agency Repair and Renovation Fund, see § 29-17-4.
Community College Repair and Renovation Fund, see § 37-29-268.

ISSUANCE OF BONDS FOR CONSTRUCTION AND IMPROVEMENT OF FACILITIES

Sec.
37-101-91. Authority of board of trustees to borrow money for construction, repair, etc., of facilities; bond issue authorization; interest rates on bonds.
37-101-93. Bond issue resolution; issuance, terms, sale, etc., of bonds.
37-101-95. Refunding bonds.
37-101-97. Sale of bonds; state liability on bonds.
37-101-99. Supervision of building projects.
37-101-101. Powers of board as to payment of bonds.
37-101-103. Custody and disposition of funds; reports.

§ 37-101-91. Authority of board of trustees to borrow money for construction, repair, etc., of facilities; bond issue authorization; interest rates on bonds.

The board of trustees of state institutions of higher learning is hereby authorized and empowered to contract with and borrow money from the United States of America, or any department, instrumentality, or agency thereof, as may be designated or created to make loans and grants, or from private lenders, at an overall rate of interest to maturity not to exceed that allowed in Section 75-17-103, for the purpose of acquiring land for, and erecting, repairing, remodeling, maintaining, adding to, extending, improving, equipping, or acquiring dormitories, dwellings, apartments, athletic stadium, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, parking facilities, cafeterias, dining halls, and/or other revenue producing facilities, to be located at or near the campuses of the University of Mississippi, Mississippi State University of Agriculture and Applied Science, Mississippi State College for Women, Alcorn A. & M. College, University of Southern Mississippi, Delta State College, Jackson State College, Mississippi Valley State College, and Gulf Coast Research Laboratory.

In agreements or commitments by or between the aforesaid board of trustees and private lenders and/or the U.S. Department of Housing and Urban Development to make loans or grants for the construction of dormitories in which bonds are to be issued under the provisions of Sections 37-101-91 through 37-101-103, and in which part or all of the principal and/or interest on said bonds is to be paid or guaranteed by the U. S. Department of Housing and Urban Development, said bonds shall bear a net interest rate not in excess of that allowed in Section 75-17-103.

Notwithstanding the foregoing provisions of this section, bonds referred to hereinabove may be issued pursuant to the supplemental powers and authorizations conferred by the provisions of the Registered Bond Act, being Sections 31-21-1 through 31-21-7.

SOURCES: Codes, 1942, § 6724.5-11; Laws, 1968, ch. 271, § 1; Laws, 1983, ch. 453; Laws, 1984, ch. 506, § 2, eff from and after passage (approved May 15, 1984).

Editor's Note — Section 37-117-1 changed the name of Mississippi State College for Women to Mississippi University for Women.

Section 37-121-1 changed the name of Alcorn Agricultural and Mechanical College to Alcorn State University.

Section 37-123-1 changed the name of Delta State College to Delta State University.

Section 37-125-1 changed the name of Jackson State College to Jackson State University.

Section 37-127-1 changed the name of Mississippi Valley State College to Mississippi Valley State University.

Cross References — Bond issue for improving athletic stadium, see § 37-119-7.

§ 37-101-93. Bond issue resolution; issuance, terms, sale, etc., of bonds.

Bonds issued for the purposes enumerated in Section 37-101-91 shall be authorized by resolution of the board of trustees of state institutions of higher learning. Said resolution shall positively show the said land, to be acquired, if any, and the said dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools and the like, to be erected, repaired, remodeled, maintained, added to, extended, improved, equipped or acquired, together with equipment therefor. A majority vote of all the members of said board of trustees shall be necessary to the passage of said resolution, and all votes on such resolutions shall be by yea and nay vote, duly recorded on the minutes of the proceedings of the board.

The bonds may be issued in one or more series, may bear such date or dates, may be in such denomination or denominations, may mature at such time or times, not exceeding forty (40) years from the respective dates thereof, may mature in such amount of amounts, may bear interest at such rate or rates, not exceeding that allowed in Section 75-17-103, payable semiannually, may be in such forms, either coupon or registered, may carry such registration privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, and may be subject to such terms of redemption, with or without premium, as such resolution or other resolutions may provide. The bonds may be sold at a private sale, at not less than par and accrued interest, without advertising the same at competitive bidding. The bonds shall be fully negotiable within the meaning and for all purposes of the Uniform Commercial Code.

Notwithstanding any other provision of law, in any resolution authorizing bonds hereunder, including refunding bonds, the board of trustees may provide for the initial issuance of one or more bonds (hereinafter sometimes collectively called “bond”), may make such provision for installment payments of the principal amount of any such bond as it may consider desirable, and may provide for the making of any such bond registerable as to principal or as to both principal and interest and, where interest accruing thereon is not represented by interest coupons, for the endorsing of payments of interest on such bond. The board may further make provision in any such resolution for the manner and circumstances in and under which any such bond may in the future, at the request of the holder thereof, be converted into bonds of smaller denominations, which bonds of small denominations may in turn be either coupon bonds or bonds registerable as to principal or principal and interest.

SOURCES: Codes, 1942, § 6724.5-12; Laws, 1968, ch. 271, § 2; Laws, 1984, ch. 506, § 3, eff from and after passage (approved May 15, 1984).

Cross References — Maximum rates of interest for bonds issued under provisions of §§ 37-101-91 through 37-101-103, see § 37-101-91.

§ 37-101-95. Refunding bonds.

Bonds issued for the purposes enumerated in Section 37-101-91 may be refunded, in whole or in part:

(a) When any such bonds have by their terms become due and payable and there are not sufficient sums in the fund established for their payment to pay such bonds and the interest thereon;

(b) When any such bonds are by their terms callable for payment and redemption in advance of their date of maturity and shall have been duly called for payment and redemption;

(c) When any such bonds are voluntarily surrendered by the holder or holders thereof in exchange for refunding bonds; or

(d) When, in connection with the issuance of any additional bonds under Sections 37-101-91 through 37-101-103 for the purpose of financing any additional authorized construction, the board of trustees of state institutions of higher learning shall determine to combine such new issue of bonds with any issue or issues of bonds of the same institution of higher learning of the State of Mississippi then outstanding for the purpose of unifying such indebtedness and utilizing the income and revenues derived from all projects or facilities operated at such institution to the payment of such indebtedness, and the board of trustees shall determine that such outstanding bonds are by their terms then callable for redemption or are obtainable by and through the voluntary surrender thereof by the holder or holders thereof.

For the purpose of refunding any bonds, including refunding bonds, the board of trustees may make and issue refunding bonds in such amount as may be necessary to pay off and redeem bonds to be refunded together with unpaid and past due interest thereon and any premium which may be due under the terms of such bonds, together also with the cost of issuing and refunding bonds, and may sell the same in like manner as provided in Section 37-101-97 for the initial issuance of bonds. With the proceeds of any such refunding bonds, the board shall pay off, redeem, and cancel such old bonds and coupons as may have matured or such bonds as may have been called for payment and redemption together with the past due interest and the premium, if any, due thereon; such bonds may be issued and delivered in exchange for a like par value amount of bonds to refund which the refunding bonds were issued. No refunding bonds issued hereunder shall be payable in more than forty (40) years from the date thereof or shall bear interest at a rate in excess of the rate of interest authorized in Section 75-17-103 for the bonds being refunded.

Such refunding bonds shall be payable from the same sources as were pledged to the payment of the bonds refunded thereby and, in the discretion of the board of trustees, may be payable from any other sources which may be pledged to the payment of revenue bonds issued under Sections 37-101-91 through 37-101-103. Bonds of two (2) or more issues of any institution of higher learning of the state of Mississippi may be refunded by a single issue of refunding bonds.

Notwithstanding the foregoing provisions of this section, bonds referred to hereinabove may be issued pursuant to the supplemental powers and authorizations conferred by the provisions of the Registered Bond Act, being Sections 31-21-1 through 31-21-7.

SOURCES: Codes, 1942, § 6724.5-12; Laws, 1968, ch. 271, § 2; Laws, 1984, ch. 506, § 4, eff from and after passage (approved May 15, 1984).

Cross References — Maximum rates of interest for bonds issued under provisions of §§ 37-101-91 through 37-101-103, see § 37-101-91.

Bond issue for improving athletic stadium, see § 37-119-7.

§ 37-101-97. Sale of bonds; state liability on bonds.

All bonds sold under the provisions of Sections 37-101-91 through 37-101-103 shall be sold by the state bond commission. The state shall not pledge its full faith and credit to the payment of said bonds.

SOURCES: Codes, 1942, § 6725-11; Laws, 1946, ch. 384, § 1; Laws, 1948, ch. 281, § 1; Laws, 1952, ch. 279; Laws, 1958, ch. 296, § 1; Laws, 1968, ch. 414, § 1; Laws, 1969, Ex Sess, ch. 32, § 1; Laws, 1970, ch. 389, § 1, eff from and after passage (approved April 3, 1970).

Cross References — Power of agricultural high school to borrow money for housing facilities, see § 37-27-69.

Power of junior college to borrow money for housing facilities, see § 37-29-121.

Maximum rates of interest for bonds issued under provisions of §§ 37-101-91 to 37-101-103, see § 37-101-91.

Bond issue for improving athletic stadium, see § 37-119-7.

§ 37-101-99. Supervision of building projects.

The state building commission is hereby authorized to supervise the contracting for, and the erection of, all buildings erected as a result of the provisions of Sections 37-101-91 through 37-101-103.

SOURCES: Codes, 1942, § 6725-11; Laws, 1946, ch. 384, § 1; Laws, 1948, ch. 281, § 1; Laws, 1952, ch. 279; Laws, 1958, ch. 296, § 1; Laws, 1968, ch. 414, § 1; Laws, 1969, Ex Sess, ch. 32, § 1; Laws, 1970, ch. 389, § 1, eff from and after passage (approved April 3, 1970).

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 31-11-1 provides that wherever the terms "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services.

Cross References — Power of agricultural high school to borrow money for housing facilities, see § 37-27-69.

Power of junior college to borrow money for housing facilities, see § 37-29-121.

Maximum rates of interest for bonds issued under provisions of §§ 37-101-91 to 37-101-103, see § 37-101-91.

Bond issue for improving athletic stadium, see § 37-119-7.

§ 37-101-101. Powers of board as to payment of bonds.

The board of trustees of state institutions of higher learning in connection with the issuance of the bonds for the purposes enumerated in Section 37-101-91, or in order to secure the payment of such bonds and interest thereon, shall have power by resolutions:

(a) To fix and maintain (1) fees, rentals, and other charges to be paid by students, faculty members and others using or being served by any dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities, erected, repaired, remodeled, maintained, added to, extended, improved, or acquired under the authority of Section 37-101-91; (2) fees, rentals and other charges to be paid by students, faculty members, and others using or being served by any other dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities at any institution which so issues bonds, which fees, rentals and other charges to be paid by students, faculty members, and others using or being served by such other dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities, shall be the same as those applicable to the dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities referred to in the preceding subdivision (1); however, in fixing such fees, rentals and other charges, there may be allowed reasonable differentials based on the condition, type, location and relative convenience of the dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities in question, but such differentials shall be uniform as to all such students or faculty members and others similarly accommodated;

(b) To provide that bonds so issued shall be secured by a first, exclusive and closed lien on, and shall be payable from, all or any part of the income and revenues derived from fees, rentals and other charges to be paid by students, faculty members or others using or being served by any dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities operated at any such institution, and erected, repaired, remodeled, maintained, added to, extended, improved or acquired under Section 37-101-91, or any other law, or otherwise, and not theretofore so pledged;

(c) To pledge and assign to, or in trust for the benefit of the holder or holders of any bond or bonds, coupon or coupons so issued, an amount of the income and revenues derived from such fees, rentals and other charges to be paid by students, faculty members, or others using or being served by any dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities operated at any such institution, and erected, repaired, remodeled, maintained, added to, extended, improved or acquired under Section 37-101-91, or any other law, or otherwise, and not theretofore so pledged, which rentals, fees and charges imposed and pledged pursuant to the terms of this section shall be sufficient to pay when due the bonds so issued and interest thereon, to create and maintain a reasonable reserve therefor and to operate and maintain the project so constructed, and to create and at all times maintain an adequate reserve for contingencies and for major repairs and replacements;

(d) To covenant with or for the benefit of the holder or holders of any bond or bonds, coupon or coupons so issued to erect, repair, remodel, maintain, add to, extend, improve or acquire any dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities, that so long as any of said bonds or coupons shall remain outstanding and unpaid, such institution shall fix, maintain and collect, in such installments as may be agreed upon, an amount of fees, rentals or other charges from students, faculty members, and others using or being served by any dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities operated at any such institution and erected, repaired, remodeled, maintained, added to, extended, improved or acquired under Section 37-101-91, or any other law, or otherwise, which shall be sufficient to pay when due any bond or bonds, coupons or coupons so issued, and to create and maintain a reasonable reserve therefor, and to pay the cost of operation and maintenance of such dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities, including a sum sufficient to pay the cost of insuring such dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities against loss or damage by fire and windstorm or other calamities, in such sum as may be acceptable to the purchaser or purchasers of such bonds. The rentals, fees and other charges shall at all times be sufficient to maintain an adequate bond sinking fund to provide for the payment of interest on and principal of the bonds as and when they accrue and mature, to create a reasonable reserve therein and to pay the cost of operation and maintenance and insurance as herein provided and to create and at all times maintain an adequate reserve for contingencies and for major repairs and replacements;

(e) To make and enforce and agree to make and enforce parietal rules that shall insure the use of any such dormitory, dwelling, apartment, athletic stadium, gymnasium, student union building, student service center, athletic field, swimming pool, or other project or facility by all students in attendance at such institution, and faculty members thereof, to the maximum extent to which such dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities are capable of serving same, so long as it does not interfere with any existing contract;

(f) To covenant that as long as any of the bonds so issued shall remain outstanding and unpaid, it will not, except upon such terms and conditions as may be determined by the resolution issuing such bonds, (1) voluntarily create, or cause to be created, any debt, lien, pledge, assignment, encumbrance, or other charge having priority to or being on a parity with the lien of the bonds so issued upon any of the income and revenues derived from fees, rentals and other charges to be paid by students, faculty members and others using or being served by any dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities operated at any such institution and erected, repaired, remodeled, maintained, added to, extended, improved or acquired under Section 37-101-91, or any other law, or otherwise, or (2) convey or otherwise alienate any such dormitories, dwellings, apartments, athletic stadiums, gymnasiums, student union buildings, student service centers, athletic fields, swimming pools, or other projects or facilities, or the real estate upon which the same shall be located, except at a price sufficient to pay all the bonds then outstanding payable from the revenues derived therefrom and interest accrued on such bonds, and then only in accordance with any agreements with the holder or holders of such bonds, or (3) mortgage or otherwise voluntarily create, or cause to be created, any encumbrance on any such dormitory, dwelling, apartment, athletic stadium, gymnasium, student union building, student service center, athletic field, swimming pool, or other project or facility, or the real estate upon which it shall be located;

(g) To covenant as to the proceedings by which the terms of any contract with a holder or holders of such bonds may be amended or rescinded, the amount or percentage of bonds the holder or holders of which must consent thereto and the manner in which such consent may be given;

(h) To vest in a trustee or trustees the right to receive all or any part of the income and revenue and proceeds of insurance pledged and assigned to, or for the benefit of, the holder or holders of such bonds, and to hold, apply and dispose of the same and the right to enforce any covenant made to secure or pay or in relation to such bonds;

(i) To authorize the chairman and the secretary of said board to execute and deliver, in the name of the institution for which such bonds are being issued, a trust agreement or agreements which may set forth the powers and duties of such trustee or trustees, and limiting the liabilities thereof, and describing what occurrences shall constitute events of default and prescribing the terms and conditions upon which such trustee or trustees or the holder or holders of bonds of any specified amount or percentage of such bonds may exercise such right and enforce any and all such covenants and resort to any such remedies as may be appropriate; and

(j) To vest in a trustee or trustees or the holder or holders of any specified amount or percentage of bonds the right to apply to any court of competent jurisdiction for and have granted the appointment of a receiver or receivers of the income and revenue pledged and assigned to or for the benefit of the holder or holders of such bonds, which receiver or receivers may have and be granted such powers and duties as are usually granted under the laws of the State of Mississippi to a receiver or receivers appointed in connection with the foreclosure of a mortgage made by a private corporation.

SOURCES: Codes, 1942, § 6725-13; Laws, 1946, ch. 384, § 3; Laws, 1952, ch. 280, § 2; Laws, 1958, ch. 296, § 3.

Cross References — Maximum rates of interest for bonds issued under provisions of §§ 37-101-91 through 37-101-103, see § 37-101-91.

§ 37-101-103. Custody and disposition of funds; reports.

No moneys derived from the sale of bonds of any institution or otherwise borrowed or received by such institution under Sections 37-101-91 through 37-101-103, or from the fees, rentals, and charges received and collected for the use of any project constructed, repaired, remodeled, maintained, added to, extended, improved, or acquired under authority of said sections, shall be required to be paid into the state treasury, but shall, except as herein otherwise provided, be deposited by the treasurer or other fiscal officer of the institution in a separate bank account or accounts in such bank or banks or trust company or trust companies as may be designated by the board of trustees of state institutions of higher learning. All deposits of such moneys shall, if required by the board, be secured by obligations of the United States of America or of the State of Mississippi, of a market value equal at all times to the amount of the deposit, and all banks and all trust companies are hereby authorized to give such security. Such money may be disbursed as may be directed by the board and in accordance with the terms of any agreements with the holder or holders of any bonds. This section shall be construed as limiting the power of said board to agree in connection with issuance of any such bonds as to the custody and disposition of the moneys received from the sale of such bonds or the income and revenues pledged and assigned to or in trust for the benefit of the holder or holders thereof.

It is specifically provided, however, notwithstanding any other provision of this section, that when any project financed by the proceeds of revenue bonds issued hereunder shall be supervised by the state building commission and the said state building commission shall execute and enter into construction contracts with respect thereto, the board of trustees of state institutions of higher learning shall have the power and authority to pay into the state treasury in a special account for said project an amount from the proceeds of the sale of the bonds which shall be sufficient to pay all such construction contracts and all fees and expenses incidental thereto, including any amount, plus interest thereon, which may have been borrowed for interim financing of said project. The amount so paid into such special account shall be expended by the state building commission in the manner provided by law in payment of the amounts due under such construction contracts, and fees and expenses incidental thereto, and in repayment of money, if any, borrowed for interim financing, plus interest thereon. If, at the conclusion of the project, any sum should remain in said special account it shall be repaid to the institution entitled thereto to be handled in accordance with the terms of the agreement with the holder or holders of the bonds.

Notwithstanding any other provisions of this section, such reports as may be required by the state auditor of public accounts shall be made to him by the institutions of higher learning in the manner and at the times he may prescribe, so that his records may reflect full and complete information relative thereto.

SOURCES: Codes, 1942, § 6725-14; Laws, 1946, ch. 384, § 4; Laws, 1960, ch. 311; Laws, 1962, ch. 371, § 1, eff from and after July 1, 1962.

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services.

Cross References — Public contracts for energy efficiency services, see § 31-7-14.

Maximum rates of interest for bonds issued under provisions of §§ 37-101-91 through 37-101-103, see § 37-101-91.

Duty of board to study institutions within its jurisdiction and to coordinate extension programs, see § 37-101-13.

INVESTMENTS IN UNITED STATES SHORT-TERM BONDS

Sec.	
37-101-121.	Authorization of investments.
37-101-123.	Sale and redemption.
37-101-125.	Orders and resolutions of board of trustees.

§ 37-101-121. Authorization of investments.

The board of trustees of state institutions of higher learning is hereby authorized and empowered, in its discretion, and with the consent and approval of the state building commission, to invest any funds derived or made available for the purpose of constructing, erecting, repairing, remodeling or equipping dormitories and other housing facilities under projects approved and sanctioned by the Home and Housing Finance Agency of the United States of America, whether said funds be derived from the proceeds of bonds issued under the provisions of Sections 37-101-91 through 37-101-103, or from money borrowed for the interim financing of any such project, or from any other sources, in short-term bonds or other direct obligations of the United States of America. However, no such funds shall be so invested except the amount of such funds which is in excess of the sums which will be required for expenditure in financing the construction of said projects during the succeeding ninety days. In all cases, the bonds or other obligations in which such funds are invested shall mature or be redeemable prior to the time the funds so invested will be needed for expenditure in financing the construction of said projects.

The board of trustees of state institutions of higher learning, with the consent and approval of the state building commission, may, by order or resolution spread upon its minutes, authorize and empower any member or members of said board of trustees, or any officers or employees thereof, or any other person or persons, to make investments of such funds from time to time as they shall be available for investment under the provisions of this section. Any such member or members or officers or employees, or other person or persons, when so authorized by such order or resolution, shall have the power and authority to make such investments of such funds, to make purchases of such bonds or other obligations, to execute all necessary instruments in connection therewith, and to take such other action as may be necessary to effectuate the investment of such funds.

SOURCES: Codes, 1942, § 6725.3; Laws, 1958, ch. 302, §§ 1-5.

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services.

§ 37-101-123. Sale and redemption.

When any such bonds or other direct obligations of the United States of America shall have been purchased with such excess funds as is provided for in Section 37-101-121, such bonds or other obligations may be sold or surrendered for redemption at any time by order or resolution adopted by the board of trustees of state institutions of higher learning, and approved by the state building commission. Any member or members thereof or any officers or employees thereof, or any other person or persons, when authorized by such order or resolution, shall have the power and authority to sell said bonds or other obligations or to surrender same for redemption and to execute all instruments and take such other action as may be necessary to effectuate the sale or redemption thereof. When such bonds or other obligations shall be sold or redeemed, the proceeds thereof, including the accrued interest thereon, shall be paid into the proper fund and shall in all respects be dealt with and expended for the purpose for which said funds were originally derived or made available.

SOURCES: Codes, 1942, § 6725.3; Laws, 1958, ch. 302, §§ 1-5.

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services.

§ 37-101-125. Orders and resolutions of board of trustees.

Orders or resolutions of the board of trustees of state institutions of higher learning authorizing the investment of funds or the sale and redemption of bonds and other obligations purchased therewith under the provisions of Sections 37-101-121 and 37-101-123, may be in general terms and may confer continuing authority upon the person or persons authorized to act. It shall not be necessary that separate resolutions or orders be passed and adopted with reference to each transaction.

SOURCES: Codes, 1942, § 6725.3; Laws, 1958, ch. 302, §§ 1-5.

SALE OF TIMBER; MINERAL LEASES

SEC.

37-101-141. Sale of timber on federally granted lands authorized.
37-101-143. Mineral leases of federally granted lands authorized.
37-101-145. Procedure for sale or lease.
37-101-147. Execution of conveyances and leases.
37-101-149. Disposition of proceeds of sale or lease; reports.
37-101-151. Continuation of trust funds.
37-101-153. Mineral leases of lands of institutions of higher learning authorized.
37-101-155. Procedure for lease.
37-101-157. Execution of lease.
37-101-159. Disposition of proceeds of lease.
37-101-161. Relationship of provisions with §§ 37-101-141 through 37-101-151.

§ 37-101-141. Sale of timber on federally granted lands authorized.

The board of trustees of state institutions of higher learning is hereby authorized and empowered, in its discretion, to sell and dispose of the timber, trees, dead wood and stumps standing, growing and being upon the lands granted to the State of Mississippi for the use and benefit of the University of Mississippi by an act of congress of the United States approved June 20, 1894, and upon the lands granted to the State of Mississippi for the use and benefit of Mississippi State College for Women by an act of congress of the United

States approved March 2, 1895, and upon the lands granted to the State of Mississippi for the use and benefit of Mississippi State University of Agriculture and Applied Science, and Alcorn Agricultural and Mechanical College by an act of congress of the United States approved February 20, 1895, whenever the sale or disposition of such timber shall be to the best advantage of the institutions named herein. Such timber shall be sold and disposed of under the direction and specifications of the state forestry commission in accordance with sound and efficient principles of forestry management and conservation.

SOURCES: Codes, 1942, § 6726-01; Laws, 1946, ch. 323, § 1.

Editor's Note — Section 37-117-1 changed the name of Mississippi State College for Women to Mississippi University for Women.

Section 37-121-1 changed the name of Alcorn Agricultural and Mechanical College to Alcorn State University.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

§ 37-101-143. Mineral leases of federally granted lands authorized.

The board of trustees of state institutions of higher learning is also authorized and empowered to lease those lands referred to in Section 37-101-141, or any part thereof, for oil, gas and mineral development, or for any other purpose, for such consideration, upon such terms and conditions as said board of trustees shall deem proper, and for the best advantage of the respective institutions. Any such oil, gas or mineral lease shall not be for a primary term of more than six years and so long thereafter as oil, gas or other minerals are produced from said lands. The royalties reserved in such lease or leases shall be not less than the following:

(a) On oil, one-eighth part produced and saved from said land;

(b) On gas, including casinghead gas, or other gaseous substances, produced from said land and sold or used off the premises, or for the extraction of gasoline or other products therefrom, the market value at the well of one-eighth of the gas so sold or used; and

(c) On all other minerals mined and marketed, one-eighth part in kind or value at the well or mine except sulphur on which the royalty shall be two dollars ($2.00) per long ton.

SOURCES: Codes, 1942, § 6726-02; Laws, 1946, ch. 323, § 2.

Cross References — Procedure for sale or lease of mineral or timber land, see § 37-101-145.

§ 37-101-145. Procedure for sale or lease.

Before any timber, trees, dead wood, or stumps, standing, growing or being upon lands shall be sold from said lands as is authorized in Section 37-101-141, and before any lands shall be leased for oil, gas and mineral purposes, or other purposes as is authorized in Section 37-101-143, the board of trustees of state institutions of higher learning shall advertise its intention to do so by publication in a newspaper in the City of Jackson, and also in a newspaper published in each county where such lands are situated, such notice to be published once a week for three consecutive weeks preceding such sale or lease, and by posting one notice at the courthouse in the county or counties where the lands are situated. In any county having no paper published therein, the publication shall be placed in some paper having a general circulation in said county. Said board shall sell or lease at public auction, or by sealed bids, at the place designated in said notices, to the highest and best bidder for cash. The board shall have the right to reject any or all of such bids.

SOURCES: Codes, 1942, § 6726-03; Laws, 1946, ch. 323, § 3; Laws, 1948, ch. 495, § 1.

§ 37-101-147. Execution of conveyances and leases.

All leases and conveyances of timber, trees, dead wood and stumps, and all oil, gas and mineral leases, or leases for other purposes, provided for in Sections 37-101-141 and 37-101-143, shall be executed by the President of the Board of Trustees of State Institutions of Higher Learning, and attested by the Commissioner of Higher Education, respectively, for and on behalf of the University of Mississippi, Mississippi State College for Women, Mississippi State University of Agriculture and Applied Science and Alcorn Agricultural and Mechanical College, as the case may be. The corporate seal of the proper institution shall be affixed to all conveyances and leases of the lands held for the use and benefit of such institutions. In all such cases such conveyances and leases shall be executed only upon the order or resolution of the Board of Trustees of State Institutions of Higher Learning in the manner and method hereinbefore set forth.

SOURCES: Codes, 1942, § 6726-05; Laws, 1946, ch. 323, § 5; Laws, 1988, ch. 324, § 2, eff from and after July 1, 1988.

Editor's Note — Section 37-117-1 changed the name of Mississippi State College for Women to Mississippi University for Women.

Section 37-121-1 changed the name of Alcorn Agricultural and Mechanical College to Alcorn State University.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Appointment and duties of commissioner of Higher Education, see §§ 37-101-7.

§ 37-101-149. Disposition of proceeds of sale or lease; reports.

The proceeds derived or received from all sales of timber, trees, dead wood, and stumps, and from all oil, gas and mineral leases, or leases for other purposes, provided for in Sections 37-101-141 and 37-101-143, including but not limited to rentals, bonuses, royalties, and delay rentals, shall be deposited in such special funds as the said board of trustees of state institutions of higher learning may designate for the use and benefit of the institution owning or having the use and benefit of the land from which such money was derived. Such money, after all expenditures for maintenance, operation, and improvements necessary for effective and scientific management of said resources shall have been deducted, shall be used and expended under the supervision of said board of trustees for the erection and construction of permanent improvements on the campuses of such institutions, or for the repair of permanent improvements existing on said campuses. It is the purpose of this section that the funds received from lands held for the use of each of the respective institutions shall be kept in a special fund for the use and benefit of the institution having the use and benefit of the land from which such funds were derived, and that such funds shall be expended only for the purposes hereinabove set forth.

Notwithstanding any other provisions of this section, such reports as may be required by the state auditor of public accounts shall be made to him by the institutions of higher learning in the manner and at the times he may prescribe, so that his records may reflect full and complete information relative thereto.

SOURCES: Codes, 1942, § 6726-04; Laws, 1946, ch. 323, § 4; Laws, 1952, ch. 205; Laws, 1962, ch. 371, § 2, eff from and after July 1, 1962.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

§ 37-101-151. Continuation of trust funds.

All trust funds which have heretofore been established for the use and benefit of any of the institutions named in Section 37-101-141 out of the proceeds of the sales or leases of any of the land specified in Sections 37-101-141, 37-101-143, as provided either in Chapter 45, Laws of Extraordinary Session of 1898, Chapter 46, Laws of Extraordinary Session of 1898, or Chapter 117, Laws of 1896, shall remain a fund for the use of the institution to which it is credited. The interest thereon shall be paid to such institution by the state in accordance with and as provided in Section 212 of the Constitution of the State of Mississippi.

SOURCES: Codes, 1942, § 6726-06; Laws, 1946, ch. 323, § 6.

§ 37-101-153. Mineral leases of lands of institutions of higher learning authorized.

The board of trustees of state institutions of higher learning is hereby authorized and empowered in its discretion to lease any lands, or any part thereof, belonging to any of the institutions of higher learning, either of said institutions or other institutions under its control and supervision, for oil, gas and mineral development, upon such terms, conditions and considerations as said board of trustees shall deem proper and for the best interest of the institution or institutions. Any such oil, gas or mineral lease shall be for a primary term of not more than six years and so long thereafter as oil, gas or other mineral is produced from said land. The royalty reserved in such lease or leases shall not be less than the following:

(a) On oil, one-eighth part produced and saved from said land;

(b) On gas, including casinghead gas, or other gaseous substances, produced from said land and sold or used off the premises, or for the extraction of gasoline or other products therefrom the market value at the well of one-eighth of the gas so sold or used; and

(c) On all other minerals mined and marketed, one-eighth part in kind or value at the well or mine except sulphur on which the royalty shall be two dollars ($2.00) per long ton.

SOURCES: Codes, 1942, § 6726.3; Laws, 1950, ch. 376, §§ 1-5.

Cross References — Proceeds from leases of sixteenth section school lands or lieu lands located in area defined as coastal wetlands, see § 29-7-14.

§ 37-101-155. Procedure for lease.

Before any of the land named in Section 37-101-153, shall be leased for oil, gas and mineral purposes, the board of trustees of state institutions of higher learning shall give notice of its intention by publishing a notice in some newspaper in the City of Jackson and also a newspaper published in the county or counties where such lands are situated, giving the time and place that said board will receive bids. Said notice shall be published once each week for three consecutive weeks. Said board at said time and place will receive sealed bids for such lease or leases, and will consider the highest and best bid that is the most advantageous to the institution or institutions. The board shall have the right to reject any or all such bids.

SOURCES: Codes, 1942, § 6726.3; Laws, 1950, ch. 376, §§ 1-5.

Cross References — Authorization of mineral leases of federally granted lands, see § 37-101-143.

§ 37-101-157. Execution of lease.

All oil, gas and mineral leases provided for in Section 37-101-153, shall be executed by the President of the Board of Trustees of State Institutions of Higher Learning and attested by the Commissioner of Higher Education, respectively, on behalf of the institution owning or having the use of such lands as the case may be. The corporate seal of the institution owning or having benefit of such land shall be affixed to all leases. In all such cases such leases shall be executed only upon order or resolution of the Board of Trustees of State Institutions of Higher Learning in the manner hereinbefore set forth.

SOURCES: Codes, 1942, § 6726.3; Laws, 1950, ch. 376, §§ 1-5; Laws, 1988, ch. 324, § 3, eff from and after July 1, 1988.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 through 37-101-30.

Appointment and duties of Commissioner of Higher Education, see § 37-101-7.

Authorization of mineral leases of federally granted lands, see § 37-101-143.

§ 37-101-159. Disposition of proceeds of lease.

The consideration and proceeds derived or received from all oil, gas and mineral leases provided for in Section 37-101-153, including, but not limited to bonuses, rentals, royalties and delay rentals, shall be paid to the board of trustees of state institutions of higher learning for the use and benefit of the institution owning or having the use and benefit of the land from which said money was derived. All such money or funds shall be allocated to or used for the benefit of such institution or institutions.

SOURCES: Codes, 1942, § 6726.3; Laws, 1950, ch. 376, §§ 1-5.

Cross References — Authorization of mineral leases of federally granted lands, see § 37-101-143.

§ 37-101-161. Relationship of provisions with §§ 37-101-141 through 37-101-151.

Sections 37-101-153 through 37-101-161 shall not alter, modify, change or repeal Sections 37-101-141 through 37-101-151, providing for the sale of timber and leasing for oil, gas and mineral purposes certain lands therein referred to. Sections 37-101-153 through 37-101-161 provide a method for the leasing of lands belonging to the several institutions of higher learning and other institutions under the control and management of said board of trustees not authorized by Sections 37-101-141 through 37-101-151.

SOURCES: Codes, 1942, § 6726.3; Laws, 1950, ch. 376, §§ 1-5.

Cross References — Authorization of mineral leases of federally granted lands, see § 37-101-143.

FACULTY AND OTHER EMPLOYEES

Sec.
37-101-181. Academic leaves for faculty members.
37-101-183. Sabbatical leaves for faculty members.
37-101-185. Employment of technical and professional assistance for supervision of work relating to physical facilities.
37-101-187 through 37-101-193. Repealed

§ 37-101-181. Academic leaves for faculty members.

Any member of the faculties of Alcorn A & M College, Jackson State College, and Mississippi Valley State College shall be eligible for leave of absence to pursue advanced academic training so as to elevate the scholastic qualifications of the faculties of these above-mentioned colleges, in line with the requirements of the several accrediting agencies.

In order to provide for the above leaves the board of trustees of state institutions of higher learning shall have power to adopt rules and regulations regarding such leave. In no instance shall leave be granted unless there is a contract providing for continued service, after expiration of the leave, in the college where the faculty member is employed.

The board of trustees of state institutions of higher learning is hereby authorized to make payment of salary, or such part of salary as may be decided, of such faculty members who are under contract for academic leaves.

SOURCES: Codes, 1942, § 6724.6; Laws, 1958, ch. 314, §§ 1-4.

Editor's Note — Section 37-121-1 changed the name of Alcorn Agricultural and Mechanical College to Alcorn State University.

Section 37-125-1 changed the name of Jackson State College to Jackson State University.

Section 37-127-1 changed the name of Mississippi Valley State College to Mississippi Valley State University.

§ 37-101-183. Sabbatical leaves for faculty members.

Any members of the faculty of the state institutions of higher learning of the State of Mississippi shall be eligible for sabbatical leaves, for the purpose of professional improvement, for not more than two semesters immediately following any twelve or more consecutive semesters of active service in the institutions of higher learning of this state where such faculty member is employed or for not more than one semester immediately following any six or more consecutive semesters of such service. Absence on sick leave shall not be deemed to interrupt the active service herein provided for.

Applications for sabbatical leave shall be made to the board of trustees of state institutions of higher learning, with the approval of the chancellor or the president of the institutions of higher learning. Approval or disapproval of the applications for sabbatical leave shall be made on the basis of regulations prescribed by the board of trustees of state institutions of higher learning.

Any person who is granted a sabbatical leave and who fails to comply with the provisions of such leave as approved by the state institution of higher learning may have his or her leave terminated by the board of trustees of state institutions of higher learning.

No person on sabbatical leave can be denied any regular increment of increase in salary because of absence on sabbatical leave.

Service on sabbatical leave shall count as active service for the purpose of retirement and contributions to the retirement fund shall be continued.

In order to provide for the above leaves the board of trustees of state institutions of higher learning shall have power to adopt rules and regulations regarding such leave. In no instance shall leave be granted unless there is a contract providing for continued service, after expiration of the leave, in the college where the faculty member is employed.

Every person on sabbatical leave shall enjoy all the rights and privileges pertaining to his or her employment in the institution of higher learning in which such person is employed, which such person would have enjoyed if in active service during such leave in the position from which such leave was taken.

Each person granted sabbatical leave may receive and be paid compensation up to the rate of fifty per cent of such person's annual salary.

Compensation payable to persons on sabbatical leave shall be paid at the same time and in the same manner salaries of the other members of the faculty are paid.

SOURCES: Codes, 1942, § 6797.5; Laws, 1958, ch. 307, §§ 1-9.

§ 37-101-185. Employment of technical and professional assistance for supervision of work relating to physical facilities.

The board of trustees of state institutions of higher learning is hereby authorized to cooperate with the state building commission, in the discretion of both agencies, in the employment of technical and professional personnel for supervising the planning and constructing or repairs of physical plant facilities located on the campuses of the several institutions of higher learning. Upon determination by the state building commission as to the proportionate amount due from the board of trustees for salaries and other expenses of such employees, said board is authorized and empowered to pay over to the state building commission such sums from funds available to the board of trustees of state institutions of higher learning for such purposes.

SOURCES: Codes, 1942, § 6725.5; Laws, 1956, ch. 292, § 2.

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services.

§§ 37-101-187 through 37-101-193. [Repealed].

Repealed by Laws of 2009, ch. 404, § 1, eff from and after July 1, 2009.

§ 37-101-187. [Codes, 1942, § 6282-41; Laws, 1956, ch. 265, § 1.]

§ 37-101-189. [Codes, 1942, § 6282-42; Laws, 1956, ch. 265, § 2.]

§ 37-101-191. [Codes, 1942, § 6282-43; Laws, 1956, ch. 265, § 3.]

§ 37-101-193. [Codes, 1942, § 6282-44; Laws, 1956, ch. 265, § 4.]

Editor's Note — Former § 37-101-187 required instructors, professors or other teachers employed by institutions of higher learning or other educational institutions supported wholly or in part by public funds to file affidavits as to membership in certain organizations as a condition precedent to employment.

Former § 37-101-189 provided the form of the affidavit.

Former § 37-101-191 provided that contracts with instructors, professors or other teachers who had not filed affidavits were void.

Former § 37-101-193 provided penalties for filing a false affidavit.

OUT-OF-STATE GRADUATE AND PROFESSIONAL STUDIES

SEC.
37-101-221. Repealed.

§ 37-101-221. Repealed.

Repealed by Laws of 2014, ch. 538, § 41, effective from and after July 1, 2014.

§ 37-101-221. [Codes, 1942, § 6726.5; Laws, 1948, ch. 282, § 1; Laws, 1962, ch. 372.]

Editor's Note — Former § 37-101-221 provided for instruction of Mississippi residents in graduate and professional schools outside state. For present similar provisions, see § 37-106-65.

COMMISSION ON COLLEGE ACCREDITATION

SEC.
37-101-241. Commission on college accreditation.

§ 37-101-241. Commission on college accreditation.

(1) There is hereby created the Commission on College Accreditation. Said commission shall be composed of the Executive Director of the Mississippi Community College Board, the Commissioner of Higher Education, or their designees, and three (3) additional members, one (1) of whom shall be selected by the foregoing two (2) members and who shall represent the private colleges within the state, and two (2) of whom shall be selected by the Mississippi Association of Colleges. The latter three (3) members shall each serve for a term of three (3) years.

(2) The commission shall meet and organize by electing from among its membership a chairman, a vice chairman and a secretary. The commission shall keep full and complete minutes and records of all its proceedings and actions.

(3) The commission shall have the power and authority, and it shall be its duty, to prepare an approved list of community, junior and senior colleges and universities or other entities which offer one or more postsecondary academic degrees and are domiciled, incorporated or otherwise located in the State of

Mississippi. Postsecondary academic degrees include, but are not limited to, associate, bachelor, masters and doctorate degrees. The commission shall adopt standards which are in keeping with the best educational practices in accreditation and receive reports from the institutions seeking to be placed on the approved list.

(4) The above-described community, junior and senior colleges and universities or other entities must be approved annually by the commission in order to grant diplomas of graduation, degrees or offer instruction.

(5) The commission shall petition the chancery court of the county in which a person or agent offers one or more postsecondary academic degrees subject to the provisions of this chapter or advertises for the offering of such degrees without having first obtained approval by the commission, for an order enjoining such offering or advertising. The court may grant such injunctive relief upon a showing that the respondent named in the petition is offering or advertising one or more postsecondary academic degrees without having obtained prior approval of the commission. The Attorney General or the district attorney of the district, including the county in which such action is brought, shall, upon request of the commission, represent the commission in bringing any such action.

(6) The provisions of subsection (5) shall not apply to community, junior and senior colleges and universities with the main campus in Mississippi that were chartered, authorized or approved by the commission prior to July 1, 1988.

(7) The provisions of this section shall not apply to the proprietary schools and colleges subject to regulation under Section 75-60-1 et seq.

(8) The Commission on College Accreditation may promulgate rules and regulations and establish appropriate fees for the implementation of this section.

(9) The commission shall have the power and authority, and it shall be its duty, to execute site visits when deemed necessary by the commission. The members of the commission and commission-appointed evaluation teams shall receive reasonable traveling expenses and other authorized expenses incurred in the performance of commission duties, together with other expenses of the operation of the commission. The members of the Commission on College Accreditation shall serve without salary compensation but shall receive a per diem and mileage as authorized by law including time of going to and returning from site visits of said commission, together with actual travel and hotel expenses incident to the site visits of the commission, and in the discharge of duties prescribed by the commission.

SOURCES: Codes, 1942, § 6791.5; Laws, 1950, ch. 368, §§ 1-4; Laws, 1964, ch. 414; Laws, 1988, ch. 324, § 4; Laws, 2006, ch. 483, § 1; Laws, 2009, ch. 409, § 1; Laws, 2012, ch. 311, § 1; Laws, 2014, ch. 397, § 42, eff from and after July 1, 2014.

Amendment Notes — The 2012 amendment rewrote (6); added (7) and renumbered remaining subsections accordingly.

The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in (1).

Cross References — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 through 37-101-30.

Appointment and duties of Commissioner of Higher Education, see § 37-101-7.

Exemption, from Chapter 60 of Title 75 governing proprietary schools and colleges, of private colleges and universities accredited by Mississippi Commission on College Accreditation, see § 75-60-5.

JUDICIAL DECISIONS

1. In general.

Requirement that each candidate for admission to state university furnish certificates of alumni denies equal protection of the laws to Negro candidates. Meredith v. Fair, 298 F.2d 696 (5th Cir. 1962).

ATTORNEY GENERAL OPINIONS

Because its predecessor in name was grandfathered by legislative action from having to comply with a statute requiring approval from the Mississippi Commission on College Accreditation to give degrees and certificates, a college may grant diplomas of graduation or degrees as though approved by the Commission. Cook, June 26, 1992, A.G. Op. #92-0460.

RESEARCH REFERENCES

ALR. Liability of private school or educational institution for breach of contract arising from provision or deficient educational instruction. 46 A.L.R.5th 581.

SALE OF TICKETS TO ATHLETIC CONTESTS [REPEALED]

Sec.
37-101-261. Repealed.

§ 37-101-261. Repealed.

Repealed by Laws, 1990, ch. 342, § 2, eff from and after July 1, 1990.
[Codes, 1942, § 6800.3; Laws, 1948, ch. 370, §§ 1-4]

Editor's Note — Former § 37-101-261 restricted sale of tickets to athletic events. For current provisions, see § 97-23-97.

SCHOLARSHIPS AND LOANS

Sec.
37-101-279. Suits against parties defaulting on educational loans or scholarships.
37-101-281. Repealed.
37-101-283. Compliance with federal selective service law as condition to loan and scholarship eligibility.
37-101-285. Definitions applicable to § 37-101-291.
37-101-287. Repealed.

37-101-289.	Repealed.
37-101-291.	Program for paid educational leave for study of certain health care professions.
37-101-292.	Stipend program for contractual services employees to pursue undergraduate or graduate degree in civil engineering.
37-101-293.	Program for paid educational leave to pursue undergraduate or graduate level education.

§ 37-101-279. Suits against parties defaulting on educational loans or scholarships.

(1) If a borrower defaults on an educational loan or scholarship, the Attorney General of the State of Mississippi shall bring suit against the defaulting party as soon as practicable.

(2) A suit against a defaulting party under this section may be brought in the county in which the defaulting person resides, in which the lender is located, or in any Hinds County court.

SOURCES: Laws, 1987, ch. 337, eff from and after passage (approved March 17, 1987).

RESEARCH REFERENCES

ALR. Construction and application of agreement by medical or social work student to work in particular position or at particular location in exchange for financial aid in meeting costs of education. 83 A.L.R.3d 1273.

Bankruptcy discharge of student loan on ground of undue hardship under § 523(a)(8)(B) of Bankruptcy Code of 1978 (11 USCS § 523(a)(8)(B)). 63 A.L.R. Fed. 570.

Rights and obligations of Federal Government, under 20 USCS § 1080, when student borrower defaults on federally insured loan. 73 A.L.R. Fed. 303.

§ 37-101-281. Repealed.

Repealed by Laws, 1991, ch 547, § 15, eff from and after July 1, 1991.

[Laws, 1982, Ex Sess, ch. 17, § 29; Laws, 1985, ch. 491; Laws, 1987, ch. 457; Laws, 1988, ch. 334; Laws, 1989, ch. 557, § 1, eff from and after July 1, 1989].

Editor's Note — Former § 37-101-281 related to scholarship and loan programs for teacher training. For current provisions concerning incentive loans for teachers, and the William F. Winter Teacher Scholar Loan Program, see § 37-143-11 [repealed].

Laws of 1991, ch. 547, § 18, effective July 1, 1991, provides as follows:

"SECTION 18. The Board of Trustees of State Institutions of Higher Learning is hereby authorized to honor all contracts and commitments for the provision of loans or scholarships existing under prior programs repealed by this act."

§ 37-101-283. Compliance with federal selective service law as condition to loan and scholarship eligibility.

Each male applicant for any scholarship or loan funded in whole or in part by this state, whether granted by the board of trustees of state institutions of higher learning, the post-secondary education financial assistance board, or otherwise granted by any state-supported college or university, and whether to be used at a state-supported institution of higher learning or at a private institution, shall within six (6) months after he attains the age of eighteen (18) years submit to the person, commission, board or agency in which his application for scholarship or loan is or has been made satisfactory evidence of his compliance with the draft registration requirements of the military selective service act. Such evidence shall consist of a signed affirmation under penalty of perjury from the scholarship or loan applicant that he has complied with the requirements of the federal selective service act. If an applicant for or holder of any such scholarship or loan fails to submit a copy of his draft registration acknowledgment letter in the manner and within the time allowed therefor, any pending application of such person for the award, grant or renewal of any such scholarship or loan shall be denied, and any such scholarship or loan currently held by such person shall be revoked to the extent that no further payments under that scholarship or loan may be made to him or on his behalf. The person, commission, board or agency to which an application for the award, grant or renewal of such scholarship or loan is made, or by or through which any such scholarship or loan is administered or issued shall notify the applicant or holder and the chief executive officer of any institution at which a holder of a scholarship or loan so revoked is enrolled of its action, and upon request of the scholarship or loan applicant or holder shall afford him the opportunity, either in person, in writing or by counsel of his choice to present evidence against such action.

SOURCES: Laws, 1984, ch 389; Laws, 1984, 1st Ex Sess, ch. 24, eff from and after July 1, 1984.

Cross References — Authority of the Attorney General to prepay court costs in civil actions for the recovery of delinquent sums owed to the Mississippi Guaranteed Student Loan Program, see § 7-5-66.

Enforceability of written loan obligation of minor student, see § 37-49-5.

Post-secondary financial assistance, see §§ 37-106-1 et seq.

Federal Aspects — Military Selective Service Act, see 50 USCS Appx §§ 451 et seq.

RESEARCH REFERENCES

Am Jur. 53 Am. Jur. 2d, Military and Civil Defense §§ 64 et seq.

§ 37-101-285. Definitions applicable to § 37-101-291.

For the purposes of Section 37-101-291, the following terms shall have the following meanings unless context shall prescribe otherwise:

(1) "State health institution" or "state health institutions" means all facilities operated within the Department of Mental Health, mental health/intellectual disability facilities under the administration of a regional commission as established under Section 41-19-31, that are certified by the Department of Mental Health, University of Mississippi Hospital, the State

Board of Health, health care facilities operated by the Department of Corrections, and any other public health care facility.

(2) "Health care professions" means nurses, nurse practitioners, speech pathologists, psychologists, occupational therapists, physical therapists, and any other critical need profession determined by the sponsoring state health institution.

SOURCES: Laws, 1989, ch. 549, § 1; Laws, 1992, ch. 336, § 21; Laws, 2003, ch. 446, § 1; Laws, 2010, ch. 476, § 15, eff from and after passage (approved Apr. 1, 2010.)

§ 37-101-287. Repealed.

Repealed by Laws, 1991, ch. 547, § 17, eff from and after July 1, 1991. [Laws, 1989, ch. 549, § 2, eff from and after July 1, 1989].

Editor's Note — Former § 37-101-287 related to loans for study of certain health care professions. For current provisions concerning health care professionals' loan program, see § 37-143-13 [repealed].

Laws of 1991, ch. 547, § 18, effective July 1, 1991, provides as follows:

"SECTION 18. The Board of Trustees of State Institutions of Higher Learning is hereby authorized to honor all contracts and commitments for the provision of loans or scholarships existing under prior programs repealed by this act."

§ 37-101-289. Repealed.

Repealed by Laws, 1991, ch. 547, § 13, eff from and after July 1, 1991. [Laws, 1989, ch. 549, § 3, eff from and after July 1, 1989].

Editor's Note — Former § 37-101-289 related to revolving loan fund for study of ceratin health care professions. For current provisions pertaining to health care professions' loan program, see § 37-143-13 [repealed] .

Laws of 1991, ch. 547, § 18, effective July 1, 1991, provides as follows:

"SECTION 18. The Board of Trustees of State Institutions of Higher Learning is hereby authorized to honor all contracts and commitments for the provision of loans or scholarships existing under prior programs repealed by this act."

§ 37-101-291. Program for paid educational leave for study of certain health care professions.

(1) In order to help alleviate the problem of the shortage of health care professionals at the state health institutions, there is established a program of paid educational leave for the study of such health care professions as defined in Section 37-101-285 and licensed practical nursing by any employee who works at a state health institution and who declares an intention to work in such respective health care occupation in the same state health institution in which the employee was working when granted educational leave, for a minimum period of time after graduation.

(2) The paid educational leave program shall be administered by the respective state health institutions.

(3)(a) Within the limits of the funds available to a state health institution for such purpose, the institution may grant paid educational leave to those applicants deemed qualified therefor, upon such terms and conditions as it may impose and as provided for in this section.

(b) In order to be eligible for paid educational leave, an applicant must:

(i) Be working at a state health institution at the time of application;

(ii) Attend any college or school approved and designated by the state health institution; and

(iii) Agree to work in a health care profession as defined in Section 37-101-285 or as a licensed practical nurse in the same state health institution for a period of time equivalent to the period of time for which the applicant receives paid educational leave compensation, calculated to the nearest whole month, but in no event less than two (2) years.

(c)(i) Before being granted paid educational leave, each applicant shall enter into a contract with the state health institution, which shall be deemed a contract with the State of Mississippi, agreeing to the terms and conditions upon which the paid educational leave shall be granted to him. The contract shall include such terms and provisions necessary to carry out the full purpose and intent of this section. The form of such contract shall be prepared and approved by the Attorney General of this state, and shall be signed by the executive director of the respective state health institution and the recipient. If the recipient is a minor, his minority disabilities shall be removed by a chancery court of competent jurisdiction before the contract is signed.

(ii) The state health institution shall have the authority to cancel any contract made between it and any recipient for paid educational leave upon such cause being deemed sufficient by the executive director of such institution.

(iii) The state health institution is vested with full and complete authority and power to sue in its own name any recipient for any balance due the state on any such uncompleted contract, which suit shall be filed and handled by the Attorney General of the state. The state health institution may contract with a collection agency or banking institution, subject to approval by the Attorney General, for collection of any balance due the state from any recipient. The State of Mississippi, agencies of the state and the state health institution and its employees are immune from any suit brought in law or equity for actions taken by the collection agency or banking institution incidental to or arising from their performance under the contract. The state health institution, collection agency and banking institution may negotiate for the payment of a sum that is less than full payment in order to satisfy any balance the recipient owes the state, subject to approval by the facility director of the sponsoring facility within the state health institution.

(iv) Failure to meet the terms of an educational loan contract shall be grounds for revocation of the professional license which was earned through the paid educational leave compensation granted under this section.

(v) A finding by the sponsoring agency of a default by the recipient shall be a finding of unprofessional conduct and therefore, a basis for the revocation of the professional license which was obtained through the educational leave program. The finding also will be grounds for revocation of any license, as defined by Section 93-11-153.

(vi) Notice of pending default status shall be mailed to the recipient at the last known address by the sponsoring agency.

(vii) The sponsoring agency shall conduct a hearing of pending default status, make a final determination, and issue an Order of Default, if appropriate.

(viii) Recipients may appear either personally or by counsel, or both, and produce and cross-examine witnesses or evidence in the recipient's behalf. The procedure of the hearing shall not be bound by the Mississippi Rules of Civil Procedure and Evidence.

(ix) If a recipient is found to be in default, a copy of an Order of Default shall be forwarded to the appropriate licensing agency.

(x) Appeals from a finding of default by the sponsoring agency shall be to the Circuit Court of Hinds County. Actions taken by a licensing entity in revoking a license when required by this section are not actions from which an appeal may be taken under the general licensing and disciplinary provisions applicable to the licensing agency.

(xi) Rules and regulations governing hearing and other applicable matters shall be promulgated by the sponsoring agency.

(xii) A license which has been revoked pursuant to this statute shall be reinstated upon a showing of proof that the recipient is no longer in default.

(xiii) A finding by the sponsoring facility of educational leave default is a disciplinary action, not a collection action, and therefore shall not be affected by the recipient declaring bankruptcy.

(4)(a) Any recipient who is granted paid educational leave by a state health institution shall be compensated by the institution during the time the recipient is in school, at the rate of pay received by a nurse's aide employed at the respective state health institution. All educational leave compensation received by the recipient while in school shall be considered earned conditioned upon the fulfillment of the terms and obligations of the educational leave contract and this section. However, no recipient of full-time educational leave shall accrue personal or major medical leave while the recipient is on paid educational leave. Recipients of paid educational leave shall be responsible for their individual costs of tuition and books.

(b) Paid educational leave shall be granted only upon the following conditions:

(i) The recipient shall fulfill his or her obligation under the contract with the State of Mississippi by working as a professional in a health care profession defined in Section 37-101-285 or as a licensed practical nurse in a state health institution; a recipient sponsored by a health institution under the supervision of the Mississippi Department of Mental Health may fulfill his or her obligation under the contract with the State of Mississippi at another health institution under the supervision of the Mississippi Department of Mental Health with prior written approval of the Director of the Department of Mental Health institution with which he or she originally contracted for educational leave. The total compensation that the recipient was paid while on educational leave shall be considered as unconditionally earned on an annual pro rata basis for each year of service rendered under the educational leave contract as a health care professional in his respective state health institution.

(ii) If the recipient does not work as a professional in a health care profession as defined in Section 37-101-285 or as a licensed practical nurse in his respective state health institution for the period required under subsection (3) (b) (iii) of this section, the recipient shall be liable for repayment on demand of the remaining portion of the compensation that the recipient was paid while on paid educational leave which has not been unconditionally earned, with interest accruing at ten percent (10%) per annum from the recipient's date of graduation or the date that the recipient last worked at that state health institution, whichever is the later date. In addition, there shall be included in any contract for paid educational leave a provision for liquidated damages equal to Five Thousand Dollars ($5,000.00) which may be reduced on a pro rata basis for each year served under such contract.

(iii) If any recipient fails or withdraws from school at any time before completing his or her health care training, the recipient shall be liable for repayment on demand of the amount of the total compensation that the recipient was paid while on paid educational leave, with interest accruing at ten percent (10%) per annum from the date the recipient failed or withdrew from school. However, the recipient shall not be liable for liquidated damages, and if the recipient returns to work in the same position held in the same state health institution prior to accepting educational leave, the recipient shall not be liable for payment of any interest on the amount owed.

(iv) The issuance and renewal of the professional license required to work in a health care profession as defined in Section 37-101-285 for which the educational leave was granted shall be contingent upon the repayment of the total compensation that the recipient received while on paid educational leave. No license shall be granted until a contract for repayment is executed. No license shall be renewed without proof of an existing contract which is not in default. Failure to meet the terms of an educational loan contract shall be grounds for revocation of the professional license which was earned through the paid educational leave compensation granted under this section. Any person who receives any amount of paid educational leave compensation while in school and subsequently receives a professional license shall be deemed to have earned the professional license through paid educational leave.

(v) The obligations of educational leave recipients under contracts entered into before July 1, 2002, shall remain unchanged. However, state health institutions may use the collection or license revocation provisions of this section to collect money owed under all educational leave contracts, regardless of when those contracts were executed.

SOURCES: Laws, 1989, ch. 549, § 4; Laws, 1993, ch. 437, § 1; Laws, 1994, ch. 428, § 1; Laws, 1996, ch. 333, § 1; Laws, 1998, ch. 444, § 1; Laws, 2002, ch. 619, § 1; Laws, 2003, ch. 446, § 2, eff from and after July 1, 2003.

§ 37-101-292. Stipend program for contractual services employees to pursue undergraduate or graduate degree in civil engineering.

(1) Within the limits of the funds available to the Mississippi Transportation Commission for such purpose, the Executive Director of the Mississippi Department of Transportation may pay a stipend to contractual services employees for educational expenses such as tuition, books and related fees to pursue junior or senior undergraduate level year coursework toward a bachelor's degree in civil engineering or graduate level coursework toward a master's degree in civil engineering to those applicants deemed qualified. It is the intent of the Legislature that such an educational program shall be used as a method of encouraging recruitment of well-qualified civil engineers for employment with the Mississippi Department of Transportation.

(2)(a) In order to be eligible for this program an undergraduate participant must:

(i) Have successfully obtained a minimum of fifty-eight (58) semester hours toward a bachelor of science in civil engineering from a state institution of higher learning that has been fully accredited by the Accreditation Board of Engineering and Technology;

(ii) Have achieved a minimum grade point average of 2.75 on a 4.0 scale on the previously obtained semester hours toward a bachelor of science in civil engineering; and

(iii) Agree to work as a civil engineer at the Mississippi Department of Transportation for a period of time equivalent to the period of time for which the applicant receives a stipend for educational expenses calculated to the nearest whole month.

(b) In order to be eligible for this program a graduate participant must:

(i) Have obtained a bachelor of science in civil engineering from a state institution of higher learning that has been fully accredited by the Accreditation Board of Engineering and Technology;

(ii) Have met the regular admission standards and been accepted into a master of science in civil engineering program at a state institution of higher learning that has been fully accredited by the Accreditation Board of Engineering and Technology;

(iii) Have submitted a proposed graduate program thesis project for review by the Department of Transportation; and

(iv) Agree to work as a civil engineer at the Mississippi Department of Transportation for a period of time equivalent to the period of time for which the applicant receives a stipend for educational expenses calculated to the nearest whole month.

(3)(a) Each participant shall enter into a contract with the Mississippi Transportation Commission, which shall be deemed a contract with the State of Mississippi, agreeing to the terms and conditions upon which the stipend shall be granted to him. The contract shall include such terms and provisions necessary to carry out the full purpose and intent of this section. The form of such contract shall be prepared and approved by the Attorney General of this state, and shall be signed by the Executive Director of the Mississippi Department of Transportation and the recipient. If the recipient is a minor, his minority disabilities shall be removed by a chancery court of competent jurisdiction before the contract is signed.

(b) The Mississippi Transportation Commission may cancel any contract made between it and any participant upon such cause being deemed sufficient by the executive director.

(c) The Mississippi Transportation Commission is vested with full and complete authority and power to sue in its own name any recipient for any balance due the state on any such uncompleted contract, which suit shall be filed and handled by the Attorney General of the state. The Mississippi Transportation Commission may contract with a collection agency or banking institution, subject to approval by the Attorney General, for collection of any balance due the state from any recipient. The State of Mississippi, the Mississippi Transportation Commission and the Mississippi Department of Transportation and its employees are immune from any suit brought in law or equity for actions taken by the collection agency or banking institution incidental to or arising from their performance under the contract. The Mississippi Transportation Commission may negotiate for the payment of a sum that is less than full payment in order to satisfy any balance the recipient owes the state, if necessary or advisable.

(d) Notice of pending default status shall be mailed to the recipient at the last known address prior to commencing a lawsuit.

(e) The sponsoring agency shall conduct a hearing of pending default status, make a final determination, and issue an Order of Default, if appropriate.

(f) Recipients may appear either personally or by counsel, or both, and produce and cross-examine witnesses or evidence in the recipient's behalf. The procedure of the hearing shall not be bound by the Mississippi Rules of Civil Procedure and Evidence.

(g) Appeals from a finding of default by the sponsoring agency shall be to the Circuit Court of Hinds County.

(h) Rules and regulations governing this program and other applicable matters may be promulgated by the sponsoring agency.

SOURCES: Laws, 2002, ch. 619, § 2; Laws, 2013, ch. 402, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment rewrote the section.

§ 37-101-293. Program for paid educational leave to pursue undergraduate or graduate level education.

(1) Within the limits of the funds available to any state agency for such purpose, the administrative head of such state agency may grant paid educational leave on a part-time or full-time basis and reimburse employees for educational expenses such as tuition, books and related fees to pursue undergraduate or graduate level education to those applicants deemed qualified.

It is the intent of the Legislature that such educational leave program shall be used as an incentive for employees to develop job-related skills and to develop employees for higher-level professional and management positions.

(2) In order to be eligible for paid educational leave, reimbursement for educational expenses or both, an applicant must:

(a) Be working at a state agency for at least three (3) years at the time of application or be working at a state agency at the time of application for part-time graduate level education in a particular profession deemed by the administrative head of the state agency to meet a critical need within the state agency;

(b) Attend any college or school located in the State of Mississippi and approved by the administrative head of such agency, unless such course of study is not available at a Mississippi college or school, in which case the applicant may attend an out-of-state college or school;

(c) Agree to work as an employee in the same state agency for at least three (3) full years after completion of the course of study or, in the case of employees on educational leave on a part-time basis or receiving reimbursement for educational expenses only, to work for a time prorated based upon the total amount of expenses, including leave, paid for by the agency.

(3)(a) Before being granted paid educational leave, or being approved for reimbursement of educational expense or both, each applicant shall enter into a contract with the state agency, which shall be deemed a contract with the State of Mississippi, agreeing to the terms and conditions upon which the paid educational leave will be granted to him. The contract shall include such terms and provisions necessary to implement the purpose and intent of this section. The form of such contract shall be prepared by the Attorney General of this state and approved by the State Personnel Board, and shall be signed by the administrative head of the state agency and signed by the recipient. If the recipient is a minor, his minority disabilities shall be removed by a chancery court of competent jurisdiction before the contract is signed.

(b) Educational expenses for tuition, books and associated fees shall be reimbursed to the employee only after the employee has submitted documentation that the approved course has been successfully completed.

(c) If the recipient does not work as an employee in that state agency for the period of employment specified in the contract, the recipient shall be liable for repayment on demand of the remaining portion of the compensation that he or she was paid while on paid educational leave and educational expenses paid, with interest accruing at ten percent (10%) per annum from the recipient's date of graduation, or the date that the recipient last worked at that state agency, whichever is the later date. In addition, there shall be included in any contract for paid educational leave a provision for liquidated damages equal to Two Thousand Dollars ($2,000.00) per year for each year remaining to be served under such contract.

(d) If any recipient fails or withdraws from school at any time before completing his or her education, the recipient shall be liable for repayment on demand of the amount of the total compensation that he or she was paid while on paid educational leave, with interest accruing at ten percent (10%) per annum from the date the recipient failed or withdrew from school. However, if the recipient remains or returns to work in the same position he or she held in the same state agency prior to accepting educational leave, he or she shall not be liable for payment of any interest on the amount owed.

(e) The state agency shall have the authority to cancel any contract made between it and any recipient for paid educational leave or educational expenses or both upon such cause being deemed sufficient by the administrative head of the agency.

(f) The state agency is vested with full and complete authority and power to sue in its own name any recipient for any balance due the state on any such uncompleted contract, which suit shall be conducted and handled by the Attorney General of the state.

(g) Persons who default on contracts entered into under this section shall have the default determined and lose their professional health care licenses under the procedures provided in Section 37-101-291.

(4) At the discretion of the administrative head of the state agency, any recipient who is granted paid educational leave by the state agency, including nurses, shall be compensated by such agency as prescribed by the State Personnel Board during the time he or she is in school. For employees who are on educational leave on a full-time basis, the State Personnel Board shall establish a maximum salary amount at which any employee may be paid full compensation while on educational leave and shall establish a deduction ratio or reduced percentage rate of compensation to be paid to all employees compensated at a salary level above such maximum salary amount. No recipient of full-time educational leave shall accrue personal or major medical leave while he or she is on paid educational leave.

(5) Each state agency granting paid educational leave to employees or reimbursing educational expenses or both shall file an annual report with the Legislature which shall detail for each recipient of paid educational leave the position of the employee, the cost of the educational assistance and the degree program and school attended.

(6) Within the limits of funds available to the Mississippi Department of Mental Health, the Executive Director of the Department of Mental Health may grant educational leave to medical residents of the University of Mississippi and pay a stipend in an amount not to exceed the salary of a medical

resident. In order to be eligible for paid educational leave under this subsection, the applicant must be approved by the Department of Mental Health Educational Leave Committee and meet all obligations established under agreements between the Department of Mental Health and the University of Mississippi and regulations promulgated by the Board of Mental Health. The recipient shall fulfill his or her obligation under this program on an annual pro rata basis for each year on paid education leave.

SOURCES: Laws, 1989, ch. 549, § 5; Laws, 1990, ch. 364, § 1; Laws, 1992, ch. 546 § 1; Laws, 1994, ch. 428, § 2; Laws, 2003, ch. 446, § 3; Laws, 2004, ch. 373, § 1, eff from and after July 1, 2004.

ISSUANCE OF GENERAL OBLIGATION BONDS FOR VARIOUS INSTITUTIONS OF HIGHER LEARNING, THE EDUCATION AND RESEARCH CENTER, AND THE GULF COAST RESEARCH LABORATORY

SEC.
37-101-301. Definitions.
37-101-303. Recommendation that general obligation bonds be issued; declaration of necessity for issuance of bonds; allocation of funds.
37-101-305. Issuance of general obligation bonds.
37-101-307. Manner of payment of principal and interest on bonds.
37-101-309. Execution of bonds.
37-101-311. Negotiability of bonds and coupons; tax exemption.
37-101-313. Powers and duties of State Bond Commission; sale of bonds; interest rates.
37-101-315. Liability of state on bonds.
37-101-317. Warrants for payment of principal and interest.
37-101-319. Proceedings and conditions for issuance of bonds; resolutions providing for issuance of bonds.
37-101-321. Validation of bonds.
37-101-323. Higher Education Capital Improvement Fund.
37-101-325. Protection and enforcement of rights of holders of bonds and coupons.
37-101-327. Bonds as legal investments and securities.
37-101-329. Construction of provisions.
37-101-331. Report as to renovations and repairs at state community and junior colleges.

§ 37-101-301. Definitions.

As used in Sections 37-101-1 through 37-101-331, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Institutions of higher learning" shall be deemed to refer to those institutions identified in Section 37-101-1, Mississippi Code of 1972, and to the Education and Research Center and the Gulf Coast Research Laboratory.

(b) "Office of General Services" shall mean the Governor's Office of General Services, acting through its Bureau of Building, Grounds and Real Property Management.

SOURCES: Laws, 1988, ch. 510, § 1, eff from and after passage (approved May 12, 1988).

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

§ 37-101-303. Recommendation that general obligation bonds be issued; declaration of necessity for issuance of bonds; allocation of funds.

Before the issuance of any of the bonds herein authorized, the Board of Trustees of State Institutions of Higher Learning shall forward to the State Bond Commission its recommendation declaring the necessity for the issuance of general obligation bonds as authorized by Sections 37-101-301 through 37-101-331 for the purpose of erecting, repairing, constructing, remodeling, adding to or improving capital facilities for institutions of higher learning. The State Bond Commission shall have the power and is hereby authorized, upon receipt of the aforesaid recommendations, at one (1) time or from time to time, to declare the necessity for issuance of negotiable general obligation bonds of the State of Mississippi in an aggregate amount not to exceed Forty Million Dollars ($40,000,000.00) to provide funds for the purposes hereinabove set forth and to issue and sell bonds in the amount specified.

Out of the total amount of bonds authorized to be issued, funds shall be allocated among the institutions of higher learning as follows:

Alcorn State University	$4,416,000.00
Delta State University	1,882,000.00
Jackson State University	2,396,000.00
Mississippi State University	9,810,000.00
Mississippi University for Women	1,909,000.00
Mississippi Valley State University	1,775,000.00
University of Mississippi	6,086,000.00
University of Southern Mississippi	5,971,000.00
University of Southern Mississippi—Gulf Park Campus	309,000.00
University Medical Center	3,465,000.00
Gulf Coast Research Laboratory	260,000.00
Education and Research Center	475,000.00
Division of Agriculture, Forestry and Veterinary Medicine	1,246,000.00

It is expressly provided, however, that in the event any emergencies or unforeseen contingencies arise, the amount set forth above for any institution may be increased by the Board of Trustees of State Institutions of Higher Learning, provided that the amount of such increase is achieved by a pro rata reduction in the amounts allocated to the other institutions.

SOURCES: Laws, 1988, ch. 510, § 2, eff from and after passage (approved May 12, 1988).

Cross References — State Bond commission generally, see §§ 31-17-1 et seq.

Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 through 37-101-30.

§ 37-101-305. Issuance of general obligation bonds.

Upon receipt of a certified copy of a resolution of the Board of Trustees of State Institutions of Higher Learning declaring the necessity for the issuance of any part or all of the bonds authorized by Sections 37-101-301 et seq., the State Bond Commission is hereby authorized and empowered to sell and issue general obligation bonds of the State of Mississippi in the principal amount requested, not to exceed an aggregate principal amount of Forty Million Dollars ($40,000,000.00) for the purposes hereinabove set forth. The State Bond Commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 37-101-301 et seq. from the proceeds derived from the sale of such bonds.

SOURCES: Laws, 1988, ch. 510, § 3, eff from and after passage (approved May 12, 1988).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 through 37-101-30.

§ 37-101-307. Manner of payment of principal and interest on bonds.

The principal of and interest on such bonds shall be payable in the manner hereinafter set forth. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates, be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times, be redeemable prior to maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission.

SOURCES: Laws, 1988, ch. 510, § 4, eff from and after passage (approved May 12, 1988).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 37-101-309. Execution of bonds.

Such bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be affixed thereto, attested by the Secretary of the State Bond Commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers prior to the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear. Provided, however, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SOURCES: Laws, 1988, ch. 510, § 5, eff from and after passage (approved May 12, 1988).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.
Registered Bond Act see §§ 31-21-1 through 31-21-7.

§ 37-101-311. Negotiability of bonds and coupons; tax exemption.

All bonds and interest coupons issued under the provisions of Sections 37-101-301 through 37-101-331 shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by Sections 37-101-301 through 37-101-331, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code. Such bonds and income therefrom shall be exempt from all taxation within the State of Mississippi.

SOURCES: Laws, 1988, ch. 510, § 6, eff from and after passage (approved May 12, 1988).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.
Uniform Commercial Code, see §§ 75-1-101 et seq.

§ 37-101-313. Powers and duties of State Bond Commission; sale of bonds; interest rates.

The State Bond Commission shall act as the issuing agent for such bonds, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The State Bond Commission shall sell such bonds on sealed bids at public sale and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. All bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101, Mississippi Code of 1972. All interest accruing on such bonds so issued shall be payable semiannually or annually; provided that the first interest payment may be for any period of not more than one (1) year.

Each interest rate specified in any bid must be in a multiple of one-eighth of one percent (⅛ of 1%) or one-tenth of one percent (1⁄10 of 1%) and a zero rate of interest cannot be named.

Notice of the sale of any such bond shall be published at least one (1) time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson, Mississippi, and in one or more other newspapers or financial journals with a national circulation, to be selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of Sections 37-101-301 through 37-101-331, may provide that bonds, at the option of the State of Mississippi, may be called in for payment and redemption in reverse order of maturity at the call price named therein and accrued interest on such date or dates named therein.

SOURCES: Laws, 1988, ch. 510, § 7, eff from and after passage (approved May 12, 1988).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 37-101-315. Liability of state on bonds.

The bonds issued under the provisions of Sections 37-101-301 through 37-101-331 shall be general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi are hereby irrevocably pledged. If the funds appropriated by the Legislature be insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

SOURCES: Laws, 1988, ch. 510, § 8, eff from and after passage (approved May 12, 1988).

§ 37-101-317. Warrants for payment of principal and interest.

The State Treasurer is hereby authorized, without further process of law, to certify to the Fiscal Management Board the necessity for warrants, and the board is hereby authorized and directed to issue such warrants payable out of any funds authorized by Sections 37-101-301 through 37-101-331 for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of Sections 37-101-301 through 37-101-331; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

SOURCES: Laws, 1988, ch. 510, § 9, eff from and after passage (approved May 12, 1988).

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

§ 37-101-319. Proceedings and conditions for issuance of bonds; resolutions providing for issuance of bonds.

Such general obligation bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 37-101-301 through 37-101-331. Any resolution providing for the issuance of general obligation bonds under the provisions of Sections 37-101-301 through 37-101-331 shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

SOURCES: Laws, 1988, ch. 510, § 10, eff from and after passage (approved May 12, 1988).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 37-101-321. Validation of bonds.

The bonds authorized under the authority of Sections 37-101-301 through 37-101-331 may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by the aforesaid statute shall be published in a newspaper published in the City of Jackson, Mississippi.

SOURCES: Laws, 1988, ch. 510, § 11, eff from and after passage (approved May 12, 1988).

Cross References — Validation of public bonds generally, see §§ 31-13-1 et seq.

§ 37-101-323. Higher Education Capital Improvement Fund.

The proceeds of the bonds authorized in Sections 37-101-301 through 37-101-331 shall be deposited in a special fund hereby created in the State Treasury to be known as the "Higher Education Capital Improvement Fund." The proceeds of such bonds shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds. The costs incident to the issuance and sale of such bonds shall be disbursed by warrant upon requisition of the State Bond Commission, signed by the Governor. The expenditure of the remaining money shall be under the direction of the Office of General Services, and such funds shall be paid by the

State Treasurer upon warrants issued by the Fiscal Management Board, which warrants shall be issued upon requisitions signed by the Executive Director of the Office of General Services.

SOURCES: Laws, 1988, ch. 510, § 12, eff from and after passage (approved May 12, 1988).

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 37-101-325. Protection and enforcement of rights of holders of bonds and coupons.

Any holder of bonds issued under the provisions of Sections 37-101-301 through 37-101-331 or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted hereunder, or under such resolution, and may enforce and compel performance of all duties required by Sections 37-101-301 through 37-101-331 to be performed, in order to provide for the payment of bonds and interest thereon.

SOURCES: Laws, 1988, ch. 510, § 13, eff from and after passage (approved May 12, 1988).

§ 37-101-327. Bonds as legal investments and securities.

All bonds issued under the provisions of Sections 37-101-301 through 37-101-331 shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SOURCES: Laws, 1988, ch. 510, § 14, eff from and after passage (approved May 12, 1988).

§ 37-101-329. Construction of provisions.

Sections 37-101-301 through 37-101-331 shall be deemed to be full and complete authority for the exercise of the powers herein granted, but Sections 37-101-301 through 37-101-331 shall not be deemed to repeal or to be in derogation of any existing law of this state.

SOURCES: Laws, 1988, ch. 510, § 15, eff from and after passage (approved May 12, 1988).

§ 37-101-331. Report as to renovations and repairs at state community and junior colleges.

It is the express intent of the Legislature that the capital renovation and repair needs of state community and junior colleges be comprehensively addressed by appropriate legislation during the 1989 Regular Legislative Session; and, to that end, the Mississippi Community College Board is hereby directed to prepare a complete report detailing:

(a) Repair and renovation needs;

(b) The financing capabilities of each community and junior college district; and

(c) The total millage levied in each community and junior college district for the support of the district, the amount of revenue generated in each district by the millage imposed, and an assessment of what capital renovation and repair needs can be financed under existing levying authority.

The board shall submit such report to the Legislature on or before January 3, 1989, in order that the Legislature be made fully cognizant of such needs and capabilities. The Governor's Office of General Services is directed to provide the fullest degree of reasonable cooperation to the Mississippi Community College Board in the preparation of this report.

SOURCES: Laws, 1988, ch. 510, § 16; Laws, 2014, ch. 397, § 43, eff from and after July 1, 2014.

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in the first and last paragraphs.

Cross References — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

EXECUTIVE INSTITUTE

Sec.

37-101-351. Authority to establish executive institute; purpose.

37-101-353. Authority of board of trustees.

37-101-355. Authorization for governmental agencies and entities to pay fees and tuition for personnel to attend institute.

37-101-357. Report to Legislature.

§ 37-101-351. Authority to establish executive institute; purpose.

The Board of Trustees of State Institutions of Higher Learning is hereby authorized to establish an executive institute which shall be responsible for providing advanced training and assessment for public sector executives, elected officials, state board and commission members, and officers and employees of local government entities of the State of Mississippi.

SOURCES: Laws, 1989, ch. 472, § 1, eff from and after passage (approved March 28, 1989).

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 through 37-101-30.

Authorization for governmental agencies and entities to pay fees and tuition for personnel to attend the institute, see § 37-101-355.

§ 37-101-353. Authority of board of trustees.

The board is authorized to take any and all necessary and proper action for the implementation of Sections 37-101-351 through 37-101-357, including but not limited to (a) pursuing cooperative ventures with the John C. Stennis Institute of Government; and (b) pursuing cooperative ventures with the John C. Stennis Center for Public Service Training and Development.

SOURCES: Laws, 1989, ch. 472, § 2, eff from and after passage (approved March 28, 1989).

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 through 37-101-30.

§ 37-101-355. Authorization for governmental agencies and entities to pay fees and tuition for personnel to attend institute.

State agencies, political subdivisions and local governmental entities of the State of Mississippi are authorized to pay from available funds reasonable fees and tuition for their executives, officials and employees to attend an authorized executive institute pursuant to Section 37-101-351.

SOURCES: Laws, 1989, ch. 472, § 3, eff from and after passage (approved March 28, 1989).

§ 37-101-357. Report to Legislature.

The board shall submit to the Legislature and report no later than December 1, 1990, and December 1 of the next two (2) years thereafter outlining the status, structure and programs of the institute.

SOURCES: Laws, 1989, ch. 472, § 4, eff from and after passage (approved March 28, 1989).

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 through 37-101-30.

EQUIPMENT LEASING AND PURCHASE PROGRAM

SEC.
37-101-401 through 37-101-411. Repealed
37-101-413. Equipment leasing and purchase program; actions by board of trustees.
37-101-415 through 37-101-431. Repealed

Editor's Note — A former undesignated centered heading "Issuance of State General Obligation Bonds for the Purchase of Equipment Necessary to the Operations of the Institutions of Higher Learning," contained former §§ 37-101-401 through 37-101-431, which were repealed by Section 8 of Chapter 521, Laws of 2005.

§§ 37-101-401 through 37-101-411. Repealed.

Repealed by Laws, 2005, ch. 521, § 8, effective from and after passage (approved April 20, 2005).

§§ 37-101-401 through 37-101-411 [Laws, 1989, ch. 498, §§ 1 through 6, eff from and after passage (approved April 4, 1989).]

Editor's Note — Former §§ 37-101-401 through 37-101-411, in a former undesignated heading "Issuance of State General Obligation Bonds for the Purchase of Equipment Necessary to the Operations of the Institutions of Higher Learning," enacted by Laws, 1989, ch. 498, §§ 1 through 6, and repealed by Laws, 2005, ch. 521, § 8, effective from and after passage (approved April 20, 2005), authorized the issuance of state general obligation bonds in the amount of fifteen million dollars ($15,000,000.00) for the purchase of equipment necessary to the operations of the institutions of higher learning.

§ 37-101-413. Equipment leasing and purchase program; actions by board of trustees.

(1) As used in this section, the term "state institutions of higher learning" means those institutions identified in Section 37-101-1 and the University Research Center.

(2) The Board of Trustees of State Institutions of Higher Learning may establish an equipment leasing and purchase program for the use of the state institutions of higher learning. In establishing and administering the program, the board may perform the following actions:

(a) Adopt policies and procedures to implement the program;

(b) Establish offices or subordinate units as may be necessary for the administration of the program;

(c) Adopt rules and regulations pertaining to the program;

(d) Acquire by purchase, lease or lease-purchase contract and retain or transfer ownership or possession of instructional and other equipment;

(e) Contract for the leasing of such properties and for the financing of leases and purchases;

(f) Enter into contracts with others to provide any services deemed necessary and advisable by the board;

(g) Make purchases and enter into leases according to the requirements of the state public purchasing laws and the requirements of those laws establishing the Mississippi Department of Information Technology Services;

(h) Enter into lease financing agreements in connection with purchases made under the authority of this section;

(i) Require the transfer of appropriations of general funds or self-generated funds from the state institutions to those funds that the board may determine are required in connection with any lease financing agreements;

(j) Develop administrative methods for determining age, useful life, replacement value, current use, condition and other characteristics of instructional and research equipment at the state institutions and research facilities;

(k) Determine obsolescence of the equipment and establish priorities for replacement or provision of the equipment or its transfer to another state institution that can continue to utilize it; and

(*l*) Develop long-range plans for the orderly and systematic acquisition and utilization of the instructional and research equipment in order to eliminate waste and duplication, provide the maximum efficiency of use for expenditures, and achieve equitable allocations of equipment funds to the state institutions consistent with the roles of the institutions and disciplines served.

(3) All institutions of higher learning desiring to purchase, lease or lease-purchase equipment involving an expenditure or expenditures of more than Five Thousand Dollars ($5,000.00) must procure that equipment under the equipment leasing and purchase program unless funds for the procurement of the equipment under the program are unavailable or the equipment can be procured elsewhere at an overall cost lower than that for which the equipment can be procured under the program.

SOURCES: Former § 37-101-413 [Laws, 1989, ch. 498, § 7] repealed by Laws, 2005, ch. 521, § 8. New § 37-101-413 enacted by Laws, 2007, ch. 580, § 23, eff from and after passage (approved Apr. 21, 2007.)

Editor's Note — A former § 37-101-413, in a former undesignated centered heading "Issuance of State General Obligation Bonds for the Purchase of Equipment Necessary to the Operations of the Institutions of Higher Learning," enacted by Laws, 1989, ch. 498, § 7, and repealed by Laws, 2005, ch. 521, § 8, effective from and after passage (approved April 20, 2005), authorized the issuance of state general obligation bonds in the amount of fifteen million dollars ($15,000,000.00) for the purchase of equipment necessary to the operations of the institutions of higher learning.

§§ 37-101-415 through 37-101-431. Repealed.

Repealed by Laws, 2005, ch. 521, § 8, effective from and after passage (approved April 20, 2005).

§§ 37-101-415 through 37-101-431 [Laws, 1989, ch. 498, §§ 8 through 16, eff from and after passage (approved April 4, 1989).]

Editor's Note — Former §§ 37-101-415 through 37-101-431, in a former undesignated heading "Issuance of State General Obligation Bonds for the Purchase of Equipment Necessary to the Operations of the Institutions of Higher Learning," enacted by Laws, 1989, ch. 498, §§ 8 through 16, and repealed by Laws, 2005, ch. 521, § 8, effective from and after passage (approved April 20, 2005), authorized the issuance of state general obligation bonds in the amount of fifteen million dollars ($15,000,000.00) for the purchase of equipment necessary to the operations of the institutions of higher learning.

CHAPTER 102

Off-campus Instructional Programs

Sec.

37-102-1. Authorization of establishment; course loads; satisfaction of residency requirements; work standards and quality of degree.

37-102-3. Approval of Mississippi Community College Board.

37-102-5. Operation and location of programs.

37-102-7. Budget requests.

37-102-9. Assistance in providing facilities.

37-102-11. Construction of dormitories, gymnasiums, etc.

37-102-13. Consideration of programs of private colleges prior to authorization of off-campus programs; purpose of chapter.

37-102-15. Capital improvement expenditures.

37-102-17. Exemption from chapter.

§ 37-102-1. Authorization of establishment; course loads; satisfaction of residency requirements; work standards and quality of degree.

The Board of Trustees of State Institutions of Higher Learning may establish off-campus instructional programs for existing universities. However, the Board of Trustees of State Institutions of Higher Learning shall not establish off-campus instructional programs if in its opinion such action is not in the best interest of quality education for the State of Mississippi and the university system.

Students at any off-campus program site may, in the discretion of the Board of Trustees of State Institutions of Higher Learning, be permitted to register for full-time course loads.

Attendance at an off-campus site shall fulfill the residency requirements as if the student had attended class on the parent campus of the university, and there shall be no difference in the standards for work nor quality weight of a degree earned in the off-campus program from that earned at the parent institution.

SOURCES: Codes, 1942, § 6724.1-01; Laws, 1972, ch. 332, § 1; Laws, 1976, ch. 486, § 1; Laws, 1982, ch. 358; Laws, 1989, ch. 390, § 1, eff from and after July 1, 1989.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 through 37-101-30.

§ 37-102-3. Approval of Mississippi Community College Board.

The Board of Trustees of State Institutions of Higher Learning shall not permit its universities to offer courses for college credit at the lower undergraduate level at an off-campus site unless approved by the Mississippi Community College Board. The Board of Trustees of State Institutions of

Higher Learning, in cooperation with the Mississippi Community College Board, shall study the need and advisability of offering (a) courses for college credit at the lower undergraduate level, and (b) advanced centers for technology partnerships for industrial training and professional development for credit and noncredit courses, at the following off-campus sites by four-year public state institutions of higher learning: the Mississippi Gulf Coast counties; Greenville, Mississippi; Columbus, Mississippi; McComb, Mississippi; Hattiesburg, Mississippi; Meridian, Mississippi; Laurel, Mississippi; and any other proposed area of the state. Any such study shall take into account the ongoing programs of the community and junior colleges in the State of Mississippi when said board authorizes off-campus programs created under this chapter. It is the intent of the Legislature to meet the educational needs of students who do not have ready access to the educational opportunities that they desire. It is the further intent of this chapter that university off-campus programs established hereunder will in no way usurp the responsibilities of the public junior colleges of the State of Mississippi. The board shall establish such rules and regulations as it deems necessary and proper to carry out the purposes and intent of this chapter.

SOURCES: Codes, 1942, § 6724.1-02; Laws, 1972, ch. 332, § 2; Laws, 1989, ch. 390, § 2; Laws, 1997, ch. 420, § 1; Laws, 2014, ch. 397, § 44, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in the first and second sentences.

Cross References — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 through 37-101-30.

JUDICIAL DECISIONS

1. Constitutionality.

In a suit where the Mississippi State Board for Community and Junior Colleges (SBCJC) filed suit after the Mississippi Board of Trustees of State Institutions of Higher Learning (IHL) created a full four year university, the Mississippi Supreme Court held that the SBCJC could not be established as a body with veto power over the IHL and declared Miss. Code Ann. § 37-102-3 unconstitutional. Bd. of Trs. of State Insts. of Higher Learning v. Ray, 809 So. 2d 627 (Miss. 2002).

§ 37-102-5. Operation and location of programs.

The Board of Trustees of State Institutions of Higher Learning may designate the university which shall operate and be responsible for each off-campus site. However, off-campus sites shall be located in such a manner as to make the services of the institutions of higher learning available to the people of Mississippi without unnecessary program duplication in the same geographic area.

SOURCES: Codes, 1942, § 6724.1-03; Laws, 1972, ch. 332, § 3; Laws, 1989, ch. 390, § 3, eff from and after July 1, 1989. passage (approved April 13, 1972).

§ 37-102-7. Budget requests.

The Board of Trustees of State Institutions of Higher Learning shall submit to the Legislature budget requests with off-campus programs being an identified part of the total general support budget request for universities by being a separate item within the budget request of the respective university which offers the program. Said budget request shall include a statement of all actual or estimated receipts and disbursements for such off-campus programs and such other information as may be required by the Legislative Budget Office.

SOURCES: Codes, 1942, § 6724.1-03; Laws, 1972, ch. 332, § 3; Laws, 1976, ch. 486, § 2; Laws, 1984, ch. 488, § 202; Laws, 1989, ch. 390, § 4, eff from and after July 1, 1989.

Cross References — Affect of any member of a board, commission, council or authority changing domicile after appointment, see § 7-13-9.

Joint legislative budget committee and legislative budget office generally, see §§ 27-103-101 et seq.

§ 37-102-9. Assistance in providing facilities.

It is the intention of this chapter that the political subdivision or the people of the area may assist in providing facilities for the establishment of such off-campus sites.

SOURCES: Codes, 1942, § 6724.1-04; Laws, 1972, ch. 332, § 4; Laws, 1989, ch. 390, § 5, eff from and after July 1, 1989.

§ 37-102-11. Construction of dormitories, gymnasiums, etc.

Extracurricular items such as dormitories, gymnasiums, stadiums, and such related items shall not be constructed for use by off-campus sites of universities.

SOURCES: Codes, 1942, § 6724.1-05; Laws, 1972, ch. 332, § 5; Laws, 1989, ch. 390, § 6, eff from and after July 1, 1989.

ATTORNEY GENERAL OPINIONS

Statutory prohibition against extracurricular items such as dormitories, gymnasiums, and stadiums being constructed for use by off-campus sites of universities does not prohibit a university from utilizing as dormitories those buildings constructed for usage as dormitories prior to transfer thereof to university. Peranich, January 30, 1998, A.G. Op. #98-0057.

§ 37-102-13. Consideration of programs of private colleges prior to authorization of off-campus programs; purpose of chapter.

The Board of Trustees of State Institutions of Higher Learning shall take into account the ongoing programs of the private colleges in the State of Mississippi when said board authorizes off-campus programs created under this chapter. It is the intent of this chapter to meet the educational needs of students who do not have ready access to the educational opportunities that they desire.

SOURCES: Codes, 1942, § 6724.1-06; Laws, 1972, ch. 332, § 6; Laws, 1989, ch. 390, § 7, eff from and after July 1, 1989.

RESEARCH REFERENCES

ALR. Liability of private school or educational institution for breach of contract arising from provision or deficient educational instruction. 46 A.L.R.5th 581.

§ 37-102-15. Capital improvement expenditures.

(1) The Board of Trustees of State Institutions of Higher Learning and the Bureau of Buildings, Grounds and Real Property Management shall not make any expenditure for capital improvements for off-campus sites unless specifically authorized by the Mississippi Legislature. However, this shall not preclude such capital improvements from being made by county or municipal governments locally or regionally involved.

(2) The Board of Trustees of State Institutions of Higher Learning and the Bureau of Buildings, Grounds and Real Property Management is specifically authorized to expend any funds available to it from private sources, from the proceeds of the sale of any property and improvements currently on the site of Mississippi State University off-campus instructional program at Meridian and from the proceeds of funds designated to the Mississippi State University system for "repair, renovation and new construction" in Chapter 2, Section 2, General Laws, First Extraordinary Session of 1989, for the construction, equipping and furnishing and new building, and/or for the repair, renovation, equipping and furnishing of any existing building at the Mississippi State University off-campus instructional program site at Meridian, Mississippi. The board of trustees is hereby authorized to receive and expend matching funds from the local, county and municipal governments for such construction, equipping, furnishing, repair or renovation.

SOURCES: Codes, 1942, § 6724.1-07; Laws, 1972, ch. 332, § 7; Laws, 1989, ch. 390, § 8; Laws, 1990, ch. 443, § 1, eff from and after passage (approved March 20, 1990).

Editor's Note — Chapter 2 of the General Laws, First Extraordinary Session of 1989, referred to in subsection (2), related to a state bond issue, and was not codified in the Mississippi Code of 1972.

ATTORNEY GENERAL OPINIONS

The Board of Trustees of Institutions of Higher Learning Board may expend funds for capital improvements for off-campus sites of other institutions of higher learning only if specifically authorized by the Mississippi Legislature. Layzell, April 30, 1998, A.G. Op. #98-0230.

§ 37-102-17. Exemption from chapter.

The associate degree program in nursing of the University of Southern Mississippi located at Natchez, Mississippi, is exempt from this chapter.

SOURCES: Codes, 1942, § 6724.1-07; Laws, 1972, ch. 332, § 7, eff from and after passage (approved April 13, 1972).

CHAPTER 103

Residency and Fees of Students Attending or Applying for Admission to Educational Institutions

Sec.
37-103-1. Standards to be applied in determining residency.
37-103-3. Residency requirement for purpose of being admitted as state resident; definition of residence.
37-103-5. Residence status of person entering state for purpose of attendance at educational institution.
37-103-7. Legal residence of minor students for purposes of attendance at universities and community colleges.
37-103-9. Residence status of children of parents employed by educational institutions.
37-103-11. Effect of removal of parents from state.
37-103-13. Legal residence of adult.
37-103-15. Legal residence of married person.
37-103-17. Residence status of military personnel assigned to active duty and stationed in state and members of the Mississippi National Guard.
37-103-19. Residence status of spouse or child of military personnel assigned to active duty.
37-103-21. Military certificate.
37-103-23. Classification of aliens.
37-103-25. Tuition and fees for attending state-supported institutions of higher learning and community and junior colleges; waiver of out-of-state tuition under certain circumstances.
37-103-27. Responsibility for registration under proper residence status; presentation of false evidence of residence status.
37-103-29. Consideration of applications of nonresidents for admission.

§ 37-103-1. Standards to be applied in determining residency.

The board of trustees of each junior college in this state, the board of trustees of state institutions of higher learning, and the administrative authorities of each institution governed by said boards, in ascertaining and determining the legal residence of and tuition to be charged any student applying for admission to such institutions shall be governed by the definitions and conditions set forth in Sections 37-103-1 through 37-103-23.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1, eff from and after passage (approved August 7, 1968).

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

Resident status for purposes Mississippi Resident Tuition Assistance Grant Program to be determined in same manner as under this chapter, see § 37-106-29.

ATTORNEY GENERAL OPINIONS

Notwithstanding Section 37-103-1 et seq., an MPACT beneficiary shall be considered a resident for the purposes of tuition regardless of the beneficiary's residence on the date of enrollment, as set out in Section 37-155-5(d)(iii). Patterson, October 11, 1996, A.G. Op. #96-0679.

RESEARCH REFERENCES

ALR. Validity and application of provisions governing determination of residency for purposes of fixing fee differential for out-of-state students in public college. 56 A.L.R.3d 641.

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-3. Residency requirement for purpose of being admitted as state resident; definition of residence.

No student may be admitted to any junior college or institution of higher learning as a resident of Mississippi unless his residence has been in the State of Mississippi preceding his admission. Residence shall be as defined in Sections 37-103-7 and 37-103-13 unless excepted in this chapter.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1; Laws, 1990, ch. 326, § 1, eff from and after July 1, 1990.

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-5. Residence status of person entering state for purpose of attendance at educational institution.

A person who has entered the State of Mississippi from another state and enters an educational institution is considered a nonresident. Even though he may have been legally adopted by a resident of Mississippi, or may have been a qualified voter, or a landowner, or may otherwise have sought to establish legal residence, except as otherwise provided in Section 37-103-25(2), such a person will still be considered as being a nonresident of Mississippi if he has entered this state for the purpose of enrolling in an educational institution.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1; Laws, 1990, ch. 326, § 2; Laws, 2003, ch. 364, § 4, eff from and after July 1, 2003.

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

JUDICIAL DECISIONS

1. In general.
2. Jurisdiction in paternity cases.
3. Personal jurisdiction over students.

1. In general.

A student at the University of Mississippi, seeking to be declared a resident of Mississippi in order to obtain more favorable tuition status, is not entitled to be declared a resident where he has established in his case only that he hopes to make Mississippi his home at some future date after his graduation from law school and admission to the bar, for should he fail in any of these undertakings the reason or basis for his residence in Mississippi vanishes. Cheek v. Fortune, 341 F. Supp. 729 (N.D. Miss. 1972).

2. Jurisdiction in paternity cases.

In a paternity action filed by the alleged father, the Mississippi court had personal jurisdiction over the mother, a Lousiana native who was in Mississippi for the sole purpose of attending a Mississippi university, since the child was conceived in Mississippi and the father was a Mississippi resident; Miss. Code Ann. § 37-103-5 deals with tuition cost and did not deprive the Mississippi court of personal jurisdiction over the mother., opinion modified on other grounds 911 So. 2d 562 (Miss. Ct. App. 2005). Venegas v. Gurganus, 911 So. 2d 562 (Miss. Ct. App. 2005), writ of certiorari denied by 920 So. 2d 1008, 2005 Miss. LEXIS 639 (Miss. 2005).

3. Personal jurisdiction over students.

Miss. Code Ann. § 37-103-5 defines residents and non-residents for the sole purpose of determining tuition costs; it has no effect on the ability of Mississippi courts to exercise personal jurisdiction over a student in a Mississippi educational institution. Venegas v. Gurganus, 911 So. 2d 562 (Miss. Ct. App. 2005), writ of certiorari denied by 920 So. 2d 1008, 2005 Miss. LEXIS 639 (Miss. 2005).

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-7. Legal residence of minor students for purposes of attendance at universities and community colleges.

For purposes of determining whether a person pays out-of-state or in-state tuition for attendance at universities and community and junior colleges, the residence of a person less than twenty-one (21) years of age is that of the father, the mother or a general guardian duly appointed by a proper court in Mississippi. If a court has granted custody of the minor to one (1) parent, the residence of the minor is that of the parent who was granted custody by the court. If both parents are dead, the residence of the minor is that of the last surviving parent at the time of that parent's death, unless the minor lives with a general guardian duly appointed by a proper court of Mississippi, in which case his residence becomes that of the guardian. A student residing within the State of Mississippi who, upon registration at a Mississippi institution of higher learning or community college, presents a transcript demonstrating graduation from a Mississippi secondary school and who has been a secondary school student in Mississippi for not less than the final four (4) years of secondary school attendance shall not be required to pay out-of-state tuition.

This section shall not apply to the residence of a person as it relates to residency for voter registration or voting.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1; Laws, 2005, ch. 515, § 1; Laws, 2006, ch. 341, § 1, eff from and after July 1, 2006.

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

Requirement that student be resident of state preceding admission in order to be admitted as state resident, see § 37-103-3.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-9. Residence status of children of parents employed by educational institutions.

Children of parents who are members of the faculty or staff of any institution under the jurisdiction of the board of trustees of any junior college in this state or the Board of Trustees of State Institutions of Higher Learning may be classified as residents for the purpose of attendance at the institution where their parents are faculty or staff members.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1; Laws, 1990, ch. 326, § 3, eff from and after July 1, 1990.

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-11. Effect of removal of parents from state.

If the parents of a minor who is enrolled as a student in a junior college or in an institution of higher learning move their legal residence from the State of Mississippi, the minor shall be immediately classified as a nonresident student.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1, eff from and after passage (approved August 7, 1968).

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-13. Legal residence of adult.

The residence of an adult is that place where he is domiciled, that is, the place where he actually physically resides with the intention of remaining there indefinitely or of returning there permanently when temporarily absent.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1, eff from and after passage (approved August 7, 1968).

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

Requirement that student be resident of state preceding admission in order to be admitted as state resident, see § 37-103-3.

Applicability of this section in determining legal residence of married person, see § 37-103-15.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-15. Legal residence of married person.

A married person may claim the residence status of his or her spouse, or he or she may claim independent residence status under the same regulations set forth in Section 37-103-13 as any other adult.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1; Laws, 1980, ch. 541, eff from and after July 1, 1980.

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-17. Residence status of military personnel assigned to active duty and stationed in state and members of the Mississippi National Guard.

Members of the United States Armed Forces on extended active duty and stationed within the State of Mississippi and members of the Mississippi National Guard may be classified as residents, for the purpose of attendance at state-supported institutions of higher learning and community and/or junior colleges of the State of Mississippi. Resident status of such military personnel who are not legal residents of Mississippi, as defined in Section 37-103-13, shall terminate upon their reassignment for duty in the continental United States outside the State of Mississippi.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1; Laws, 1988, ch. 404; Laws, 1990, ch. 326, § 4; Laws, 1999, ch. 305, § 1; Laws, 1999, ch. 332, § 1, eff from and after July 1, 1999.

Joint Legislative Committee Note — Section 1 of ch. 305, Laws of 1999, effective from and after July 1, 1999 (approved March 3, 1999), amended this section. Section 1 of ch. 332, Laws of 1999, effective from and after July 1, 1999 (approved March 15, 1999), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 332, Laws of 1999, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the sections are the same, the amendment with the latest approval date shall supersede all other amendments to the same section approved on an earlier date.

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

Comparable Laws from other States — Alabama Code, § 31-10-23.

Louisiana Revised Statutes Annotated, § 29:36.1.

Tennessee Code Annotated, §§ 49-7-2301 through 49-7-2303.

Texas Education Code, § 54.241.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-19. Residence status of spouse or child of military personnel assigned to active duty.

(1) Resident status of a spouse or child of a member of the Armed Forces of the United States on extended active duty shall be that of the military spouse or parent for the purpose of attending state-supported institutions of higher learning and community/junior colleges of the State of Mississippi during the time that the military spouse or parent is stationed within the State of Mississippi and shall be continued through the time that the military spouse or parent is stationed in an overseas area with last duty assignment within the State of Mississippi, excepting temporary training assignments en route from Mississippi. Resident status of a minor child terminates upon reassignment

under Permanent Change of Station Orders of the military parent for duty in the continental United States outside the State of Mississippi, excepting temporary training assignments en route from Mississippi, and except that children of members of the Armed Forces who attain Mississippi residency in accordance with the above provisions, who begin and complete their senior year of high school in Mississippi, and who enroll full time in a Mississippi institution of higher learning or community/junior college to begin studies in the fall after their graduation from high school, maintain their residency status so long as they remain enrolled as a student in good standing at a Mississippi institution of higher learning or community/junior college. Enrollment during summer school is not required to maintain such resident status.

(2) The spouse or child of a member of the Armed Forces of the United States who dies or is killed is entitled to pay the resident tuition fee if the spouse or child becomes a resident of Mississippi

(3) If a member of the Armed Forces of the United States is stationed outside Mississippi and the member's spouse or child establishes residence in Mississippi and registers with the Mississippi institution of higher learning or community/junior college at which the spouse or child plans to attend, the institution of higher education or community/junior college shall permit the spouse or child to pay the tuition, fees and other charges provided for Mississippi residents without regard to length of time that the spouse or child has resided in Mississippi.

(4) A member of the Armed Forces of the United States or the child or spouse of a member of the Armed Forces of the United States who is entitled to pay tuition and fees at the rate provided for Mississippi residents under another provision of this section while enrolled in a degree or certificate program is entitled to pay tuition and fees at the rate provided for Mississippi residents in any subsequent term or semester while the person is continuously enrolled in the same degree or certificate program. A student may withdraw or may choose not to reenroll for no more than one (1) semester or term while pursuing a degree or certificate without losing resident status only if that student provides sufficient documentation by a physician that the student has a medical condition that requires withdrawal or nonenrollment. For purposes of this subsection, a person is not required to enroll in a summer term to remain continuously enrolled in a degree or certificate program. The person's eligibility to pay tuition and fees at the rate provided for Mississippi residents under this subsection does not terminate because the person is no longer a member of the Armed Forces of the United States or the child or spouse of a member of the Armed Forces of the United States.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1; Laws, 2005, ch. 544, § 1, eff from and after passage (approved Apr. 20, 2005.)

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-21. Military certificate.

A military person on active duty stationed in Mississippi who wishes to avail himself or his dependents of the provisions of Section 37-103-17, must submit a certificate from his military organization showing the name of the military member; the name of the dependent, if for a dependent; the name of the organization of assignment and its address (may be in the letterhead); that the military member will be on active duty stationed in Mississippi on the date of registration at the state-supported institution of higher learning or junior college of the State of Mississippi; that the military member is not on transfer orders; and the signature of the commanding officer, the adjutant, or the personnel officer of the unit of assignment with signer's rank and title. A military certificate must be presented to the registrar of the state-supported institution of higher learning or junior college of the State of Mississippi each semester or tri-semester at (or within ten days prior to) registration each semester for the provisions of said section to be effective.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1, eff from and after passage (approved August 7, 1968).

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 25, 26, 28.

§ 37-103-23. Classification of aliens.

All aliens are classified as nonresidents.

SOURCES: Codes, 1942, § 6800-11; Laws, 1962, ch. 355, § 1; Laws, 1968, ch. 417, § 1; ch. 418, § 1, eff from and after passage (approved August 7, 1968).

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

JUDICIAL DECISIONS

1. In general.

Classification of all aliens as nonresidents for purpose of charging tuition and fees at state-supported institutions of higher education violates both the equal protection and due process clauses of the Fourteenth Amendment. Jagnandan v. Giles, 379 F. Supp. 1178 (N.D. Miss. 1974),

aff'd in part, 538 F.2d 1166 (5th Cir. 1976),
cert. denied, 432 U.S. 910, 97 S. Ct. 2959,
53 L. Ed. 2d 1083 (1977).

§ 37-103-25. Tuition and fees for attending state-supported institutions of higher learning and community and junior colleges; waiver of out-of-state tuition under certain circumstances.

(1) The Board of Trustees of State Institutions of Higher Learning and the boards of trustees of the community colleges and junior colleges are authorized to prescribe the amount of tuition and fees to be paid by students attending the several state-supported institutions of higher learning and community colleges and junior colleges of the State of Mississippi.

(2) Except as otherwise provided in this subsection and subsections (3) and (4) of this section, the total tuition to be paid by residents of other states shall not be less than the average cost per student from appropriated funds. However, the tuition to be paid by a resident of another state shall be equal to the tuition amount established under subsection (1) of this section if:

(a) The nonresident student was born in the State of Mississippi but subsequently relocated and resided outside the state as a minor under the care of the minor's father or mother, or both;

(b) The nonresident student is a veteran who served in the Armed Forces of the United States;

(c) The nonresident student is domiciled in Mississippi no later than six (6) months after the nonresident student's separation from service, as evidenced by a Report of Separation from Military Service or other military discharge document, for the purpose of enrolling in a state institution of higher learning or a community or junior college;

(d) The nonresident student is an evacuee of an area affected by Hurricane Katrina or Hurricane Rita. This waiver shall be applicable to the 2005-2006 school year only; or

(e) The nonresident student's out-of-state tuition was waived according to subsection (3) or (4) of this section.

(3) The Board of Trustees of State Institutions of Higher Learning may, in its discretion, consider and grant requests to approve institution specific policies permitting the waiver of out-of-state tuition when such an official request is made by the president or chancellor of the institution and when such request is determined by the board to be fiscally responsible and in accordance with the educational mission of the requesting institution.

(4) The board of trustees of any community college or junior college may develop and implement a policy for waiving out-of-state tuition for the college if the policy is determined by the board to be in accordance with the educational mission of the college and if a local industry or business or a state agency agrees to reimburse the college for the entire amount of the out-of-state tuition that will be waived under the policy. State funds shall be allocated and spent only on students who reside within the State of Mississippi. However,

associate degree nursing students who reside outside the State of Mississippi may be counted for pay purposes.

SOURCES: Codes, 1942, § 6800-12; Laws, 1962, ch. 355, § 2; Laws, 2003, ch. 364, § 1; Laws, 2005, 5th Ex Sess, ch. 13, § 1; Laws, 2012, ch. 301, § 1; Laws, 2013, ch. 438, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2012 amendment added (2)(e) and (3); and made minor stylistic changes.

The 2013 amendment in (2), substituted "subsections (3) and (4)" for "subsection (3)"; inserted "or (4)" in (2)(e); and added (4).

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

RESEARCH REFERENCES

ALR. Validity and application of provisions governing determination of residency for purposes of fixing fee differential for out-of-state students in public college. 56 A.L.R.3d 641.

Increase in tuition as actionable in suit by student against college or university. 99 A.L.R.3d 885.

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18 et seq.

CJS. 14 C.J.S., Colleges and Universities § 28.

§ 37-103-27. Responsibility for registration under proper residence status; presentation of false evidence of residence status.

The responsibility for registering under his proper residence status is placed upon the student. In addition to any administrative action which may be taken by the governing authorities of the state-supported institutions of higher learning or junior colleges concerned, any student who wilfully presents false evidence as to his residence status shall be deemed guilty of a misdemeanor, and upon conviction thereof may be fined not to exceed one hundred dollars ($100.00).

SOURCES: Codes, 1942, § 6800-14; Laws, 1962, ch. 355, § 4, eff from and after passage (approved May 21, 1962).

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 37-103-29. Consideration of applications of nonresidents for admission.

Nothing in this chapter shall be construed to provide that the board of trustees of state institutions of higher learning or the board of trustees of any junior college is required to consider for admission the application of a nonresident.

SOURCES: Codes, 1942, § 6800-13; Laws, 1962, ch. 355, § 3, eff from and after passage (approved May 21, 1962).

Cross References — Powers and duties of boards of trustees of junior colleges generally, see § 37-29-67.

Powers and duties of board of trustees generally, see § 37-101-15.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18 et seq.

CJS. 14 C.J.S., Colleges and Universities §§ 25, 26.

CHAPTER 104

Mississippi Educational Facilities Authority Act for Private, Nonprofit Institutions of Higher Learning

Sec.

37-104-1. Short title.
37-104-3. Legislative determination; declaration of purpose.
37-104-5. Definitions.
37-104-7. Creation of Authority; nature and administration.
37-104-9. General powers of Authority.
37-104-11. Payment of expenses; liability.
37-104-13. Declaration of need by private institution.
37-104-15. Investigation by Authority.
37-104-17. Issuance of revenue bonds.
37-104-19. Bond loan agreement.
37-104-21. Negotiability of bonds and coupons; tax exemption.
37-104-23. Sale of bonds.
37-104-25. Disposition of sale proceeds; issuance of additional revenue bonds.
37-104-27. Proceedings and conditions for issuance of bonds; validation.
37-104-29. Liability of state on bonds.
37-104-31. Allocation of payments by private institutions; sinking fund.
37-104-33. Rights of bond and coupon holders.
37-104-35. Issuance of refunding bonds.
37-104-37. Bonds as legal investments and securities.
37-104-39. Acceptance of grants, loans, aid, or contributions.
37-104-41. Monies received deemed trust funds.
37-104-43. Withdrawals from Educational Facilities Authority Fund.
37-104-45. Construction of chapter.
37-104-47. Repealed.
37-104-49. Final date for issuance of bonds.

§ 37-104-1. Short title.

This chapter may be cited as the "Mississippi Educational Facilities Authority Act for Private, Nonprofit Institutions of Higher Learning."

SOURCES: Laws, 1985, ch. 480, § 1; reenacted, Laws, 1991, ch. 592, § 1; reenacted, Laws, 1993, ch. 520, § 1, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

RESEARCH REFERENCES

ALR. Liability of private vocational or trade school for fraud or misrepresentations inducing student to enroll or pay fees. 85 A.L.R.4th 1079.

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 35 et seq.

64 Am. Jur. 2d, Public Securities and Obligations §§ 110-112.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:10 et seq.

CJS. 11 C.J.S., Bonds §§ 7 et seq.

14 C.J.S., Colleges and Universities §§ 6-11.

§ 37-104-3. Legislative determination; declaration of purpose.

It is hereby declared as a matter of express legislative determination that, for the benefit of the people of the State of Mississippi and for the increase of their commerce, welfare and prosperity and for the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions of higher learning within the State of Mississippi be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; and that it is the public purpose of this chapter to provide a measure of assistance and an alternative method to enable institutions of higher learning in the State of Mississippi to provide the educational facilities and structures which are sorely needed to assist the youth of this state in achieving the required levels of learning and development of their intellectual and mental capacities, to the benefit of all of the people of the State of Mississippi.

SOURCES: Laws, 1985, ch. 480, § 2; reenacted, Laws, 1991, ch. 592, § 2; reenacted, Laws, 1993, ch. 520, § 2, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 110-112.

CJS. 14 C.J.S., Colleges and Universities §§ 6-11.

§ 37-104-5. Definitions.

As used in this chapter, the following words and terms shall have the following meanings:

(a) "Authority" means the members of the State Bond Commission, which is composed of the Governor, the Attorney General, and the State Treasurer, under Section 31-17-1, Mississippi Code of 1972, acting as the Educational Facilities Authority for Private, Nonprofit Institutions of Higher Learning.

(b) "Private institution of higher learning" means a nonprofit university, college or junior college within the State of Mississippi, authorized by law to provide a program of education beyond the high school level, which is not under the jurisdiction of the Board of Trustees of State Institutions of Higher Learning or the Mississippi Community College Board, and which is accredited by the Southern Association of Colleges and Schools.

(c) "Educational facility" means any facility or structure, including, but not limited to, a housing or dormitory facility, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, maintenance, storage or utility facility, student union building, administration building, and parking facility, and any other facility or structure related thereto, which is essential, useful or convenient for the instruction of students, the conducting of research or the operation and conduct of a private institution of higher learning, and the land underlying said facility or structure, but shall not include any facility or structure used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination or sect.

(d) "Educational facility project" means the construction, enlargement, repair, improvement, alteration, remodeling, reconstruction, equipping or acquisition of an educational facility.

(e) "Cost of the educational facility project" means the cost of construction, enlargement, repair, improvement, alteration, remodeling, reconstruction, equipping or acquisition of an educational facility; the cost of all lands, properties, rights-of-way, easements, franchises and interests acquired, used for or in connection with the educational facility; the cost of demolishing or removing buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of all machinery and equipment; financing charges, interest prior to and during construction, enlargement, repair, improvement, alteration, remodeling, reconstruction, or equipping of the said educational facility and for one (1) year after completion of said construction, enlargement, repair, improvement, alteration, remodeling, reconstruction, equipping or acquisition; the cost of engineering, architectural, financial and legal services; the cost of all plans, surveys and specifications; studies, estimates of cost and of revenues, and other expenses necessary or incident to determining the feasibility or practicability of the project; administrative expenses; the cost of such other expenses as may be necessary or incident to the financing herein authorized of the construction, enlargement, repair, improvement, alteration, remodeling, reconstruction, equipping or acquisition of any educational facility and the placing of said project in operation. Any obligations or expenses incurred for any of the foregoing purposes shall be regarded as a cost of the educational facility project and may be paid or reimbursed as such out of the proceeds of revenue bonds issued under the provisions of this chapter for such educational facility project.

(f) "Participating private institution of higher learning" means a private institution of higher learning which, pursuant to the provisions of this chapter, undertakes an educational facility project, and the financing thereof, or undertakes the refinancing of an educational facility project.

(g) "Revenue bonds" means revenue bonds issued by the Authority, under the provisions of this chapter, to finance or refinance an educational facility project at a participating private institution of higher learning and payable from monies received by the Authority from the participating private institution of higher learning pursuant to the bond loan agreement as defined herein.

(h) "Bond loan agreement" means an agreement between the participating private institution of higher learning and the Authority for the purposes of: (i) establishing the terms for the payment of the revenue bonds by the participating private institution of higher learning; (ii) establishing the collateral of the participating private institution of higher learning which the parties determine to be necessary to secure the payment of the revenue bonds; (iii) establishing the terms for the payment by the Authority to the participating private institution of higher learning of the proceeds from the sale of the revenue bonds for the payment of the costs of the educational facilities project by the participating private institution of higher learning; and (iv) setting forth all other matters relating to the revenue bonds.

SOURCES: Laws, 1985, ch. 480, § 3; reenacted, Laws, 1991, ch. 592, § 3; reenacted, Laws, 1993, ch. 520, § 3; Laws, 2014, ch. 397, § 70, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in (b).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

RESEARCH REFERENCES

ALR. Validity, under state constitution and laws, of issuance by state or state agency of revenue bonds to finance or refinance construction projects at private religious-affiliated colleges or universities. 95 A.L.R.3d 1000.

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 35 et seq.

64 Am. Jur. 2d, Public Securities and Obligations §§ 110-112.

CJS. 11 C.J.S., Bonds §§ 7 et seq.

14 C.J.S., Colleges and Universities §§ 6-11.

§ 37-104-7. Creation of Authority; nature and administration.

There is hereby created a body politic and corporate to be known as the "Mississippi Educational Facilities Authority for Private, Nonprofit Institutions of Higher Learning," hereinafter referred to as "the Authority." The Authority is constituted a public agency and instrumentality of the State of Mississippi and the exercise by the Authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function of the State of Mississippi. The administration of the powers and functions of the Authority shall be conducted by the State Bond Advisory Division, Office of the Governor, subject to the direction and approval of the members of the Authority.

SOURCES: Laws, 1985, ch. 480, § 4; reenacted, Laws, 1991, ch. 592, § 4; reenacted, Laws, 1993, ch. 520, § 4, eff from and after July 1, 1993.

Cross References — State Bond Advisory Division, see §§ 7-1-401 through 7-1-403.

Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

§ 37-104-9. General powers of Authority.

The purpose of the Authority shall be to assist private institutions of higher learning in the financing and refinancing of educational facility projects, and for this purpose the Authority is authorized and empowered:

(a) To adopt rules and regulations for the conduct of its affairs and business;

(b) To adopt an official seal and alter the same at its pleasure;

(c) To maintain an office at such place or places as it may designate;

(d) To sue and be sued in its own name;

(e) To borrow money for any of the purposes of this chapter, and to issue revenue bonds therefor, and to provide for the rights of the holders of such bonds, all as hereinafter more particularly provided;

(f) To enter into bond loan agreements with participating private institutions of higher learning;

(g) To receive and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such loans, grants, aid and contributions are made, provided that the purposes of such loans, grants, aid and contributions are not in conflict with any of the provisions of this chapter;

(h) To charge to and apportion among participating private institutions of higher learning its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;

(i) To do all things necessary or convenient to carry out the purposes of this chapter; and

(j) To physically inspect the educational facilities which are financed or refinanced under the provisions of this chapter, in order to determine whether the participating private institutions of higher learning, or any of their voluntary grantees, are using the educational facilities, or any parts thereof, for sectarian instruction or as places of religious worship or in connection with any parts of the programs of schools or departments of divinity of any religious denominations or sects.

SOURCES: Laws, 1985, ch. 480, § 5; reenacted, Laws, 1991, ch. 592, § 5; reenacted, Laws, 1993, ch. 520, § 5, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 35 et seq.

64 Am. Jur. 2d, Public Securities and Obligations §§ 110-112.

CJS. 11 C.J.S., Bonds §§ 7 et seq.
14 C.J.S., Colleges and Universities §§ 6-11.

§ 37-104-11. Payment of expenses; liability.

All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the authority of this chapter, and no liability shall be incurred by the Authority hereunder beyond the extent to which monies shall have been provided under the provisions of this chapter.

SOURCES: Laws, 1985, ch. 480, § 6; reenacted, Laws, 1991, ch. 592, § 6; reenacted, Laws, 1993, ch. 520, § 6, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

§ 37-104-13. Declaration of need by private institution.

The governing board of any private institution of higher learning is hereby authorized and empowered, in its discretion, to declare by resolution to the Authority the need for an educational facility project at said private institution of higher learning and for the issuance of revenue bonds to finance or refinance said educational facility project.

SOURCES: Laws, 1985, ch. 480, § 7; reenacted, Laws, 1991, ch. 592, § 7; reenacted, Laws, 1993, ch. 520, § 7, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

§ 37-104-15. Investigation by Authority.

The Authority is hereby authorized and directed, upon receipt from the governing board of any private institution of higher learning of said resolution, to proceed forthwith to make such investigation as it shall deem necessary and proper in order to determine that the private institution of higher learning reasonably shall be expected to produce sufficient revenues over a period not exceeding twenty-five (25) years to retire the revenue bonds issued for the financing or refinancing of the educational facility project as herein authorized, as well as the interest thereon and a reasonable sum for the maintenance, renewal and replacement of such educational facility or facilities or parts thereof, so long as said revenue bonds are outstanding.

SOURCES: Laws, 1985, ch. 480, § 8; reenacted, Laws, 1991, ch. 592, § 8; reenacted, Laws, 1993, ch. 520, § 8, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

§ 37-104-17. Issuance of revenue bonds.

Having determined that the private institution of higher learning reasonably can be expected to produce sufficient revenue over a period of twenty-five (25) years to pay the revenue bonds issued for the financing or refinancing of the educational facility project, as well as the interest on the revenue bonds and a reasonable sum for maintenance, renewal and replacement as aforesaid, the Authority shall have the power and is hereby authorized, at one (1) time or from time to time, to provide by resolution for the issuance of negotiable revenue bonds to provide funds for the purpose of financing or refinancing all or any part of the cost of the educational facility project, but in no event shall the amount of the revenue bonds issued for the financing or refinancing of any educational facility project exceed the estimated cost of the educational facility project. The principal of and the interest on the revenue bonds shall be payable solely from a special fund to be provided for that purpose in the manner hereinafter set forth. The revenue bonds shall bear date or dates, be in such denomination or denominations, bear interest at such rate or rates, not to exceed that rate authorized in Section 75-17-103, Mississippi Code of 1972, be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times, be redeemable prior to maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by the bond loan agreement and the resolution of the Authority. However, the revenue bonds shall mature in annual installments beginning not more than three (3) years from date thereof and extending not more than twenty-five (25) years from date thereof. The revenue bonds shall be signed by the president of the Authority, or by his facsimile signature, attested by the secretary of the Authority, and the official seal of the Authority shall be affixed thereto. The interest coupons, if any, to be attached to the revenue bonds may be executed by the facsimile signature of the president of the Authority. Whenever any revenue bonds shall have been signed by the president of the Authority who was in office at the time of such signing but who may have ceased to be president of the Authority prior to the sale and delivery of the revenue bonds or who may have not been in office on the date the revenue bonds may bear, the signatures of such president of the Authority upon the revenue bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the president of the Authority so officially signing the revenue bonds had remained in office until the delivery of the revenue bonds to the purchaser or had been in office on the date the revenue bonds may bear.

SOURCES: Laws, 1985, ch. 480, § 9; reenacted, Laws, 1991, ch. 592, § 9; reenacted, Laws, 1993, ch. 520, § 9, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

Recitals in bonds as to obligations of state upon bonds, see § 37-104-29.

Issuance of refunding bonds, see § 37-104-35.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 35 et seq.

64 Am. Jur. 2d, Public Securities and Obligations §§ 110-112, 164-171.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:30 et seq.

CJS. 11 C.J.S., Bonds §§ 7 et seq.

14 C.J.S., Colleges and Universities §§ 6-11.

§ 37-104-19. Bond loan agreement.

After the determination that the private institution of higher learning shall reasonably be expected to produce sufficient revenue over a period of twenty-five (25) years to pay the revenue bonds issued for the financing or refinancing of the educational facility project, as well as the interest on the revenue bonds and a reasonable sum for maintenance, renewal and replacement, has been made by the Authority, and before the issuance of the revenue bonds, the private institution of higher learning shall enter into a bond loan agreement with the Authority for the purposes of: (a) establishing the terms for the payment of the revenue bonds by the participating private institution of higher learning; (b) establishing the collateral of the participating private institution of higher learning which the parties determine to be necessary to secure the payment of the revenue bonds; (c) establishing the terms for the payment by the Authority to the participating private institution of higher learning of the proceeds from the sale of the revenue bonds for the payment of the costs of the educational facilities project by the participating private institution of higher learning; and (d) setting forth all other matters relating to the revenue bonds.

The bond loan agreement shall also provide that, for as long as the participating private institution of higher learning, or any voluntary grantee of the participating private institution of higher learning, shall own the educational facility which is the subject of the educational facility project, or any part thereof, said educational facility, or any part thereof, shall not be used for sectarian instruction or as a place of religious worship, or used in connection with any part of the program of a school or department of divinity of any religious denomination or sect. This provision shall hereinafter be referred to as “the sectarian use provision” of the bond loan agreement. The bond loan agreement shall set forth the legal description of the real property of the educational facility and the bond loan agreement shall be recorded by the participating private institution of higher learning in the land records of the county (or the applicable judicial district of a county) in which the educational facility is located or is to be located. The bond loan agreement may be recorded in its full text or in a short form evidencing: (a) the names and addresses of the parties; (b) the date of the bond loan agreement; (c) the legal description of the educational facility; (d) a brief summary of the subject matter of the bond loan agreement; and (e) the full text of the sectarian use provision of the bond loan agreement.

The participating private institution of higher learning shall also execute to the Authority, for the benefit of the State of Mississippi, all instruments necessary to perfect in the State of Mississippi a lien or security interest or both, which are first in priority over all other liens and security interests, in the collateral property of the participating private institution of higher learning identified in the bond loan agreement. All such instruments shall contain the full text of the sectarian use provision of the bond loan agreement.

SOURCES: Laws, 1985, ch. 480, § 10; reenacted, Laws, 1991, ch. 592, § 10; reenacted, Laws, 1993, ch. 520, § 10, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

RESEARCH REFERENCES

ALR. Validity, under state constitution and laws, of issuance by state or state agency of revenue bonds to finance or refinance construction projects at private religious-affiliated colleges or universities. 95 A.L.R.3d 1000.

§ 37-104-21. Negotiability of bonds and coupons; tax exemption.

All revenue bonds and interest coupons issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Mississippi Uniform Commercial Code. The revenue bonds and the income therefrom shall be exempt from all taxation within the State of Mississippi.

SOURCES: Laws, 1985, ch. 480, § 11; reenacted, Laws, 1991, ch. 592, § 11; reenacted, Laws, 1993, ch. 520, § 11, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 204-208.

CJS. 11 C.J.S., Bonds §§ 62 et seq.

§ 37-104-23. Sale of bonds.

The Authority may sell the revenue bonds in such a manner and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par, plus accrued interest to date of delivery of the bonds to the purchaser. Notice of the sale of any revenue bonds shall be published at least one (1) time not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers published in Jackson, Mississippi, and having general circulation within the State of Mississippi, and in one or more other newspapers or financial journals as may be directed by the Authority.

SOURCES: Laws, 1985, ch. 480, § 12; reenacted, Laws, 1991, ch. 592, § 12; reenacted, Laws, 1993, ch. 520, § 12, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 172 et seq.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:52 et seq.

CJS. 11 C.J.S., Bonds §§ 7 et seq.

§ 37-104-25. Disposition of sale proceeds; issuance of additional revenue bonds.

The proceeds of the sale of revenue bonds shall be paid into the State Treasury to the credit of a special fund known as the Educational Facilities Authority Fund; shall be used solely for financing or refinancing of the cost of the educational facility project, except as hereinafter provided, and shall be disbursed to the participating institution of higher learning upon order of the State Treasurer, pursuant to such restrictions, if any, as the bond loan agreement and the resolution authorizing the issuance of the revenue bonds may provide. If the proceeds of the revenue bonds, by error of calculation or otherwise, shall be less than the cost of the educational facility project, unless otherwise provided in the bond loan agreement and the resolution authorizing the issuance of the bonds, additional revenue bonds may in like manner be issued to provide the amount of such deficit which, unless otherwise provided in the bond loan agreement and the resolution authorizing the issuance of the bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the revenue bonds first issued for the same purpose. If the proceeds of the revenue bonds of any issue shall exceed the amount required for the purpose for which the revenue bonds were issued, the surplus shall be paid into a sinking fund, hereinafter established in Section 37-104-31, for the payment of the principal of and the interest on such revenue bonds.

SOURCES: Laws, 1985, ch. 480, § 13; reenacted, Laws, 1991, ch. 592, § 13; reenacted, Laws, 1993, ch. 520, § 13, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

RESEARCH REFERENCES

Am Jur. 15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:111 et seq.

§ 37-104-27. Proceedings and conditions for issuance of bonds; validation.

Revenue bonds may be issued without any other proceeding or the happening of any other conditions or things than those proceedings, conditions and things which are specified or required in this chapter. The revenue bonds authorized under this chapter may, in the discretion of the Authority, be validated by the Chancery Court of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Sections 31-13-1 through 31-13-11, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney by the Authority and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

SOURCES: Laws, 1985, ch. 480, § 14; reenacted, Laws, 1991, ch. 592, § 14; reenacted, Laws, 1993, ch. 520, § 14, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

§ 37-104-29. Liability of state on bonds.

Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the State of Mississippi or a pledge of the faith and credit of the state, but such bonds shall be payable solely from the sinking fund provided therefor, as hereinafter established in Section 37-104-31. The issuance of such revenue bonds shall not directly, indirectly or contingently obligate the state to levy or pledge any form of taxation whatever therefor, and all such revenue bonds shall contain recitals on their face substantially covering the foregoing provisions of this section.

SOURCES: Laws, 1985, ch. 480, § 15; reenacted, Laws, 1991, ch. 592, § 15; reenacted, Laws, 1993, ch. 520, § 15, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

Terms and conditions of bonds generally, see § 37-104-17.

§ 37-104-31. Allocation of payments by private institutions; sinking fund.

The payments to be made by the participating private institution of higher learning, in payment and retirement of the revenue bonds according to the terms of the bond loan agreement, may be pledged and allocated by the Authority to the payment of the principal of and interest on the revenue bonds as the bond loan agreement and the resolution authorizing the issuance of the revenue bonds may provide. Such pledge may include funds received from one or more or all sources and shall be set aside at regular intervals into a sinking fund, which sinking fund shall be pledged to and charged with the payment of:

(a) The interest upon such revenue bonds as such interest shall accrue;

(b) The principal of the revenue bonds as the same shall become due;

(c) The necessary charges of the paying agent or paying agents for paying principal and interest of and on such bonds; and

(d) Any premium on bonds retired by call or purchase as may be provided herein.

The use and disposition of such sinking fund shall be subject to such terms as may be provided in the bond loan agreement and the resolution authorizing any issue of revenue bonds, but except as may otherwise be provided in said bond loan agreement and authorizing resolution, such sinking fund shall be a fund for the benefit of all revenue bonds issued under such resolution, without distinction or priority of one over the other. Subject to the provisions of the bond loan agreement and the resolution authorizing the issuance of the revenue bonds, surplus monies in the sinking fund may be applied to the purchase or redemption of any of such revenue bonds, and any such revenue bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued.

SOURCES: Laws, 1985, ch. 480, § 16; reenacted, Laws, 1991, ch. 592, § 16; reenacted, Laws, 1993, ch. 520, § 16, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

Provision that surplus funds shall be paid into sinking fund, see § 37-104-25.

Provision that revenue bonds issued under this chapter are not debts of the state, see § 37-104-29.

§ 37-104-33. Rights of bond and coupon holders.

Any holder of revenue bonds issued under the provisions of this chapter, or of any of the interest coupons pertaining thereto, except to the extent that such rights are not restricted by the bond loan agreement and the resolution directing the issuance of such revenue bonds, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights granted hereunder and under the bond loan agreement and the authorizing resolution; and may enforce and compel performance of all duties required by this chapter and by the bond loan agreement and the authorizing resolution. No holder of any revenue bonds shall have the right to compel any exercise of taxing power by the State of Mississippi to provide funds to pay any such revenue bonds or the interest thereon, or to enforce the payment thereof against any property of the State of Mississippi; nor shall any such revenue bonds constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the state.

SOURCES: Laws, 1985, ch. 480, § 17; reenacted, Laws, 1991, ch. 592, § 17; reenacted, Laws, 1993, ch. 520, § 17, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 209 et seq.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:131 et seq.

CJS. 11 C.J.S., Bonds §§ 99 et seq.

§ 37-104-35. Issuance of refunding bonds.

The Authority is authorized to provide by resolution for the issuance of revenue-refunding bonds for the purpose of refunding any revenue bonds issued under the provisions of this chapter and then outstanding, together with interest thereon to the date of such refunding bonds, and redemption premium thereon, if any. The issuance of such revenue-refunding bonds, the maturity, and all other details thereof, the rights of the holders thereof, and the duties of the Authority in respect thereto shall be governed by the provisions of this chapter insofar as the same may be applicable.

SOURCES: Laws, 1985, ch. 480, § 18; reenacted, Laws, 1991, ch. 592, § 18; reenacted, Laws, 1993, ch. 520, § 18, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

RESEARCH REFERENCES

Am Jur. 15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:91 et seq.

§ 37-104-37. Bonds as legal investments and securities.

All revenue bonds issued under the provisions of this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies, and insurance companies organized under the laws of the State of Mississippi; and such revenue bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and public subdivisions for the purpose of securing the deposit of public funds.

SOURCES: Laws, 1985, ch. 480, § 19; reenacted, Laws, 1991, ch. 592, § 19; reenacted, Laws, 1993, ch. 520, § 19, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

§ 37-104-39. Acceptance of grants, loans, aid, or contributions.

The Authority, in addition to the monies which may be received by it from the sale of revenue bonds and from the receipt of payments by the participating private institution of higher learning for the payment of the revenue bonds pursuant to the bond loan agreement, shall have the authority to accept from any public or private agency, or from any individual, grants, loans, aid or contributions for or in aid of the educational facility project or for the payment of the revenue bonds for said educational facility project, and to receive and accept grants, loans, aid or contributions, from any source, of money or property or other things of value to be held, used, and applied only for the purposes for which such grants, loans, aid or contributions may be made, provided the purposes of such loans, grants, aid or contributions are not in conflict with any of the provisions of this chapter.

SOURCES: Laws, 1985, ch. 480, § 20; reenacted, Laws, 1991, ch. 592, § 20; reenacted, Laws, 1993, ch. 520, § 20, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 35 et seq.

CJS. 14 C.J.S., Colleges and Universities §§ 6-11.

§ 37-104-41. Monies received deemed trust funds.

All monies received by the Authority pursuant to this chapter, from any source whatever, shall be deemed to be trust funds to be held and applied solely as provided herein.

SOURCES: Laws, 1985, ch. 480, § 21; reenacted, Laws, 1991, ch. 592, § 21; reenacted, Laws, 1993, ch. 520, § 21, eff from and after July 1, 1993.

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

§ 37-104-43. Withdrawals from Educational Facilities Authority Fund.

The funds which are transferred from the sale of revenue bonds to the special fund in the State Treasury known as the Educational Facilities

Authority Fund may be withdrawn only in the following manner: Said funds shall be paid by the State Treasurer upon warrants issued by the State Auditor of Public Accounts, which warrants shall be issued upon requisition by the Authority, signed by the Governor. All expenditures ordered by the Authority shall be evidenced by complete records maintained by the Authority of said expenditures, and the Authority shall submit a full report of its work and all the transactions carried on by it and a complete statement of all its expenditures at the next regular session of the Legislature.

SOURCES: Laws, 1985, ch. 480, § 22; reenacted, Laws, 1991, ch. 592, § 22; reenacted, Laws, 1993, ch. 520, § 22, eff from and after July 1, 1993.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Cross References — Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

§ 37-104-45. Construction of chapter.

This chapter shall be deemed to provide a complete, additional and alternative method for the doing of things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws; provided, the issuance of revenue bonds and revenue-refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. Except as otherwise expressly provided herein, none of the powers granted to the Authority under the provisions of this chapter shall be subject to the supervision or regulation or require the approval or consent of any municipality or political subdivision or any department, division, commission, board, body, bureau, official or agency thereof, or of any other state agency, department, division, commission, board, body, bureau, or official.

The powers and duties conferred upon the State Bond Commission, and its members, the Governor, the Attorney General and the State Treasurer, acting as the Authority, are supplemental to and not to conflict with the duties and powers conferred upon the State Bond Commission, the Governor, the Attorney General, and State Treasurer by law.

SOURCES: Laws, 1985, ch. 480, § 23; reenacted, Laws, 1991, ch. 592, § 23; reenacted, Laws, 1993, ch. 520, § 23, eff from and after July 1, 1993.

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

Last date for issuance of bonds under §§ 37-104-1 through 37-104-45, see § 37-104-49.

§ 37-104-47. Repealed.

Repealed by Laws, 1988, ch. 362, § 1, eff from and after July 1, 1988. [Laws, 1985, ch. 480, § 24]

Editor's Note — Former § 37-104-47 provided that no bonds could be issued pursuant to the provisions of this chapter after July 1, 1988.

§ 37-104-49. Final date for issuance of bonds.

No bonds may be issued under Sections 37-104-1 through 37-104-45 after July 1, 1996.

SOURCES: Laws, 1988, ch. 362, § 2; reenacted and amended, Laws, 1991, ch. 592, § 24; reenacted and amended, Laws, 1993, ch. 520, § 24, eff from and after July 1, 1993.

CHAPTER 105

Campuses and Streets of State Institutions of Higher Learning

Sec.

37-105-1. Enactment of traffic rules and regulations.
37-105-3. Enforcement of traffic rules and regulations; jurisdiction of law enforcement officers employed by certain state universities.
37-105-5. Penalty for violations of traffic rules and regulations.
37-105-7. Animals running at large.
37-105-9. Application of general criminal laws of state.

§ 37-105-1. Enactment of traffic rules and regulations.

The board of trustees of state institutions of higher learning is hereby authorized and empowered to enact traffic rules and regulations for the control, direction, parking and general regulation of traffic and automobiles on the campus and streets of any state institution of higher learning under the supervision of such board.

Any rules and regulations promulgated hereunder shall become effective only after notice of the enactment of same has been published in three consecutive weekly issues of the college newspaper and in a newspaper published and having general circulation in the county or municipality where the institution to which same pertain is located; such notice shall state where the full text of such rules and regulations may be found on file. In addition, such rules and regulations shall be posted on five bulletin boards at each such institution for a period of four weeks after their promulgation.

SOURCES: Codes, 1942, § 6726.7; Laws, 1954, ch. 281, §§ 1-4.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Mississippi Department of Transportation to construct, repair and maintain driveways and streets on grounds of universities and colleges under jurisdiction of Board of Trustees of the State Institutions of Higher Learning, see § 65-1-37.

JUDICIAL DECISIONS

1. In general.

This section [Code 1942, § 6726.7] is not unconstitutional, either as an unwarranted delegation of legislative power, or for vagueness. Cohen v. Mississippi State Univ. of Agric. & Applied Science, 256 F. Supp. 954 (N.D. Miss. 1966).

§ 37-105-3. Enforcement of traffic rules and regulations; jurisdiction of law enforcement officers employed by certain state universities.

(1) The traffic officers duly appointed by the president of any state institution of higher learning, or any peace officer or highway patrolman of this state, are vested with the powers and authority to perform all duties incident

to enforcing such rules and regulations as may be enacted under the authority granted in Section 37-105-1, including the arrest of violators.

(2) The peace officers duly employed by Jackson State University and the University of Southern Mississippi are also vested with the powers and subjected to the duties of a constable for the purpose of preventing all violations of law that occur within five hundred (500) feet of any property owned by the university, if such universities determine that they want such peace officers to exercise such powers and if reasonably determined to have a possible impact on the safety of students, faculty or staff of the university while on said property. Provided, however, that nothing in this section shall be interpreted to require action by any such peace officer appointed by such universities to events occurring outside the boundaries of university property, nor shall any such university or its employees be liable for any failure to act to any event occurring outside the boundaries of property owned by the university. Jackson State University and the University of Southern Mississippi may enter into an interlocal agreement with other law enforcement entities for the provision of equipment or traffic control duties, however, the duty to enforce traffic regulations and to enforce the laws of the state or municipality off of university property lies with the local police or sheriff's department which cannot withhold its services solely because of the lack of such an agreement.

SOURCES: Codes, 1942, § 6726.7; Laws, 1954, ch. 281, §§ 1-4; Laws, 2007, ch. 599, § 1, eff from and after July 1, 2007.

JUDICIAL DECISIONS

1. In general.

This section [Code 1942, § 6726.7] is not unconstitutional, either as an unwarranted delegation of legislative power, or for vagueness. Cohen v. Mississippi State Univ. of Agric. & Applied Science, 256 F. Supp. 954 (N.D. Miss. 1966).

§ 37-105-5. Penalty for violations of traffic rules and regulations.

Violation of any rules or regulations promulgated under the authority granted in Section 37-105-1 shall constitute a misdemeanor. Any person charged with a violation of such rules or regulations may be charged with such violation in the justice court of the county in which such violation occurred. Any person convicted of a violation of any such rule or regulation may be punished by a fine of not more than one hundred dollars ($100.00) or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.

SOURCES: Laws, 1981, ch. 471, § 49, eff from and after January 1, 1984, or, with respect to a given county, from and after such earlier date as the county appoints a justice court clerk pursuant to § 9-11-27(3).

Editor's Note — Laws of 1981, ch. 471, § 60, as amended by Laws of 1982, ch. 423, § 28 provides as follows:

"SECTION 60. Section 8 of this act shall take effect and be in force from and after the date it is finally effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended. Sections 4, 48 and 59 of this act shall take effect and be in force from and after passage. Sections 17 and 22 of this act shall take effect and be in force from and after March 31, 1982. Sections 15, 16 and 58 of this act shall take effect and be in force from and after July 1, 1983. Sections 20, 23, 24, 25, 26, 27, 29, 30, 31, 34, 35, 36, 37, 38, 39, 41, 42, 46, 47, 49, 50, 51, 52, 54, 55, 56 and 57 of this act shall take effect from and after January 1, 1984, or with respect to a given county, from and after such earlier date as such county elects to employ a clerk for the justice court of such county in accordance with the provisions of subsection (3) of Section 7 of this act. Sections 9, 10, 18, 19 and 43 of this act shall take effect and be in force from and after January 1, 1984."

Cross References — Enactment of traffic rules and regulations for campuses and streets of state institutions of higher learning, see § 37-105-1.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

JUDICIAL DECISIONS

1. In general.

This section [Code 1942, § 6726.7] is not unconstitutional, either as an unwarranted delegation of legislative power, or for vagueness. Cohen v. Mississippi State Univ. of Agric. & Applied Science, 256 F. Supp. 954 (N.D. Miss. 1966).

§ 37-105-7. Animals running at large.

The board of trustees of state institutions of higher learning is hereby authorized and empowered to prevent or regulate the running at large of animals of all kinds on the campus and the streets of any state institution of higher learning under the supervision of such board, and to cause such animals as may be running at large to be impounded and a charge made against the owner to discharge the cost and expenses of keeping the same. If the owner of any such animal does not pay such cost within the time prescribed by the board of trustees of state institutions of higher learning, such impounded animal may be sold to discharge the cost and expense of impounding and selling the same.

If the owner of any such animal does not pay such cost within the time prescribed by the board of trustees of state institutions of higher learning and if such impounded animal cannot be sold to discharge the cost and expense of impounding and selling the same, such impounded animal may be sold or donated to research organizations.

SOURCES: Codes, 1942, § 6726.8; Laws, 1966, ch. 424, §§ 1, 2, eff from and after passage (approved June 10, 1966).

Cross References — Control of animals running at large in counties, see § 19-5-50.

Municipal control of animals running at large, and establishment of municipal dog pounds, see § 21-19-9.

Duties of conservation officer with respect to dogs running at large, see § 41-53-11.

Penalties against owners of dogs found running at large, see § 41-53-13.

§ 37-105-9. Application of general criminal laws of state.

Any act which, if committed within the limits of a city, town or village, or in any public place, would be a violation of the general laws of this state, shall be criminal and punishable if done on the campus, grounds or roads of any of the state institutions of higher learning. The peace officers duly appointed by the board of trustees of state institutions of higher learning are vested with the powers and subjected to the duties of a constable for the purpose of preventing and punishing all violations of law on university or college grounds, and for preserving order and decorum thereon.

SOURCES: Codes, 1892, § 4456; 1906, § 5033; Hemingway's 1917, § 7931; 1930, § 7200; 1942, § 6706; Laws, 1946, ch. 315, § 1; Laws, 1962, ch. 366, eff from and after passage (approved May 28, 1962).

ATTORNEY GENERAL OPINIONS

Areas in a medical mall in which the University of Mississippi Medical Center has exclusive leasehold rights of possession constitute university or college grounds within the meaning of the statute; areas in a medical mall in which the University of Mississippi Medical Center has a right of possession in common with others do not. Conerly, July 24, 1998, A.G. Op. #98-0394.

The board of trustees of a university may, by entry in its minutes, appoint individuals as peace officer or campus police officer. Conerly, July 24, 1998, A.G. Op. #98-0394.

CHAPTER 106

Post-Secondary Education Financial Assistance

Sec.
37-106-1. Short title.
37-106-3. Declaration of purpose.
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37-106-55. Critical Needs Teacher Forgivable Loan Program [Repealed effective July 1, 2020].
37-106-57. William F. Winter Teacher Forgivable Loan Program.
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37-106-69. Family protection specialist social worker forgivable loan program.
37-106-71. Mississippi Dyslexia Education Forgivable Loan Program.
37-106-73. Speech-Language Pathologists Forgivable Loan Program.
37-106-75. Higher Education Legislative Plan Grant Program.
37-106-77. Teaching Fellows Program.
37-106-79. Teacher Education Alternate Route Certification Scholars Program.

§ 37-106-1. Short title.

This chapter shall be cited as the "Post-Secondary Education Financial Assistance Law of 1975."

SOURCES: Law, 1975, ch. 507, § 1, eff from and after passage (approved April 8, 1975).

Cross References — Provisions for setoff against income tax refund for debt owed on default on educational loan, see §§ 27-7-701 et seq.

Allocation for student loans under Mississippi Private Activity Bonds Allocation Act, see § 31-23-63.

Eligibility for scholarships and loans based on compliance with Federal Military Selective Service Act, see § 37-101-283.

RESEARCH REFERENCES

ALR. Liability of private vocational or trade school for fraud or misrepresentations inducing student to enroll or pay fees. 85 A.L.R.4th 1079.

§ 37-106-3. Declaration of purpose.

(1) The Legislature hereby finds and declares that:

(a) By legislative enactment, programs are herein created wherein Mississippi residents are granted forgivable loans in certain professional fields in return for their contractual obligation to perform services in such professions under a variety of requirements of location, duration, manner and mode of service, and institution in which performed;

(b) There is a need for the creation of additional forgivable loan programs for the purpose of encouraging eligible Mississippi residents to enter into professional schools, and that, in particular, there should be programs to encourage the participation of minorities in graduate professional programs in the institutions of this state;

(c) There is a need to create an ability within the board to fashion new and innovative systems for the financing of forgivable loan programs by combining the use of private sector loans for education and guaranteed student loans with loan repayment programs promulgated by the board; and

(d) The board should be granted authority to devise and develop such innovative systems to obtain the most efficient use of state funds to encourage entry and service in certain professional fields.

(2) The purpose of the Legislature in the passage of this chapter is to make manifest the belief that the continued growth and development of Mississippi requires that all Mississippi youth be assured ample opportunity for the fullest development of their abilities and to recognize that this opportunity will not fully materialize unless the State of Mississippi moves to encourage and financially assist our young people in their efforts. This chapter shall be broadly construed to accomplish that purpose.

SOURCES: Laws, 1975, ch. 507, § 2; Laws, 2014, ch. 538, § 1, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment added (1).

§ 37-106-5. Definitions.

(1) For purposes of this chapter, the following words shall be defined as follows unless the context requires otherwise:

(a) "Eligible applicant or eligible student" means an individual who completes an application by the published application deadline for a given student financial assistance program, meets all initial or continuing eligibility requirements for the program and enrolls in an approved institution for the given program.

(b) "Approved institution" means an institution of higher learning, public or private, which is accredited by the Southern Association of Colleges and Secondary Schools, or its equivalent or a business, vocational, technical or other specialized school recognized and approved by the Postsecondary Education Financial Assistance Board.

(c) "Board" means the Postsecondary Education Financial Assistance Board created by Section 37-106-9 authorized and empowered to administer the provisions of this chapter.

(d) "Financial need" means anticipated expenses of an eligible student while attending an approved institution which cannot reasonably be met by said student or by the parents thereof as shall be determined according to the criteria established by the rules and regulations of the board. Financial need shall be reevaluated and redetermined at least annually.

(e) "Agency" means the Board of Trustees of State Institutions of Higher Learning.

(f) "Renewal applicant or renewal student" means a student who previously received funding for a given program.

(g) "Resident," "resident status" or "residency" shall be defined and determined in the same manner as resident status for tuition purposes as set forth in Sections 37-103-1 through 37-103-29, with the exception of Section 37-103-17. Unless excepted by the rules of a given program, an applicant must be a Mississippi resident to qualify for financial assistance under this chapter.

(h) "Dependent" shall be defined and used in the same manner as the term "minor" in Sections 37-103-1 through 37-103-29. The board will follow the federal guidelines for classifying a student as "dependent" or "independent."

SOURCES: Laws, 1975, ch. 507, § 3; Laws, 1987, ch. 415, § 1; Laws, 2014, ch. 538, § 2, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment deleted former (d), which read: "'Fund' means the post-secondary education assistance fund created by Section 37-106-13" and redesignated (e) and (f) as (d) and (e); added (f) through (h); and substituted "completes an application by the published application deadline for a given student financial assistance program, meets all initial or continuing eligibility requirements for the program and enrolls in an approved institution for the given program" for "is a bona fide resident of Mississippi or an out-of-state student who is enrolled or accepted for attendance at an approved institution located in Mississippi in a course of study including at least six (6) semester hours or the full-time equivalent thereof" in present (a).

§ 37-106-7. Seminarians.

Any student desiring to study for the ministry or priesthood may attend a college, university or seminary outside the state provided there is no college, university or seminary serving his faith or doctrine in which he can study for the ministry in the State of Mississippi.

SOURCES: Laws, 1975, ch. 507, § 3, eff from and after passage (approved April 8, 1975).

RESEARCH REFERENCES

Lawyers' Edition. Establishment and free exercise of religion clauses of Federal Constitution's first Amendment as applied to public schools — Supreme Court Cases. 96 L. Ed. 2d 828.

§ 37-106-9. Post-secondary education financial assistance board; members; director.

(1) There is hereby created the Postsecondary Education Financial Assistance Board which shall consist of the following nine (9) members and two (2) nonvoting advisory members: two (2) people to be appointed by the Board of Trustees of State Institutions of Higher Learning, one (1) from its membership to serve for an initial period of four (4) years and one (1) institutional representative to serve for an initial period of three (3) years; two (2) people to be appointed by the Mississippi Community College Board, one (1) from its membership to serve for an initial period of three (3) years and one (1) institutional representative to serve for an initial period of two (2) years; two (2) people to be appointed by the Governor, one (1) to serve for an initial period of two (2) years and one (1) to serve for an initial period of one (1) year; two (2) people to be appointed by the Executive Director of the Mississippi Association of Independent Colleges and Universities, one (1) association representative to serve for an initial period of two (2) years and one (1) institutional representative to serve for an initial period of one (1) year; and one (1) person to be appointed by the Lieutenant Governor for an initial period of (4) years. All subsequent appointments shall be for a period of four (4) years. Vacancies shall be filled for the length of the unexpired term only. The board shall elect from its membership a chairman. Additionally, the Chairmen of the House and Senate Universities and Colleges Committees shall serve as nonvoting advisory members.

(2) The agency shall designate one (1) member of its staff to serve as director, to administer the provisions of this financial assistance program. The

director shall be assigned by the agency sufficient staff, professional and clerical, funds and quarters to administer this program.

(3) The director:

(a) Subject to the review of the board, shall have the power of final approval of any application submitted;

(b) Subject to the approval of the board, shall have authority to promulgate the necessary rules and regulations for effective administration of this chapter, including the method of making application for assistance authorized by this chapter.

SOURCES: Laws, 1975, ch. 507, § 4; Laws, 1986, ch. 434, § 15; Laws, 2014, ch. 397, § 45; Laws, 2014, ch. 538, § 3, eff from and after July 1, 2014.

Joint Legislative Committee Note — Section 3 of Chapter 538, Laws of 2014, effective from and after July 1, 2014 (approved March 19, 2014), amended this section. Section 45 of Chapter 397, Laws of 2014, effective from and after July 1, 2014 (approved May 1, 2014), also amended this section. As set out above, this section reflects the language of Section 3 of Chapter 538, Laws of 2014, which contains language that specifically provides that it supersedes § 37-106-9 as amended by Chapter 397, Laws of 2014.

Amendment Notes — The first 2014 amendment (ch. 397) substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in the first sentence of (1).

The second 2014 amendment (ch. 538), in (1), rewrote the first sentence to authorize the appointment of additional members to the board, and added the last sentence; and deleted "and the agency" following "approval of the board" in (3)(b).

Cross References — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Mississippi Resident Tuition Assistance Grant Program to be administered by Board established under this section, see § 37-106-29.

Mississippi Eminent Scholars Fund to be administered by Board established under this section, see § 37-106-31.

§ 37-106-11. Post-secondary education financial assistance board; compensation; powers; annual report.

(1) The members of the board shall serve without pay.

(2) The board is hereby vested with full and complete authority and power to sue in its own name any person for any balance, including principal, interest and reasonable collection costs or attorney's fees, due and owing the state on any uncompleted contract.

(3) The board shall promulgate rules and regulations to govern the state grant and forgivable loan programs authorized in this chapter.

(4) All funds administered by the board shall be accounted for in an annual report that shall be submitted to the Legislature within ten (10) days after the convening thereof each year. The report should detail for each grant or forgivable loan program the number of recipients, the total amount of awards made, and the average award amount. The report shall include the number of students at each institution receiving financial assistance and the

amount of the assistance. For forgivable loan programs, the report shall also include a summary of the repayment status and method of repayment for student cohorts as well as an accounting of the receipt of funds in repayment.

SOURCES: Laws, 1975, ch, 507, § 5; Laws, 2014, ch. 538, § 4, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment substituted "including principal, interest and reasonable collection costs or attorney's fees due and owing the state on any uncompleted contract" for "including principal and interest, due and owing the state on any uncompleted contract, which suit shall be initiated by the attorney general, upon resolution adopted by the board" in (2), added (3); and rewrote former (3), which read: "The board shall submit to the legislature, on or before January 1, a report of expenditures and receipts in the fund. Such report shall include the number of students enrolled at each participating institution, the number of students at each receiving financial assistance and the amount of such assistance, and an estimate of the financial requirements of the program for the next year. The amount of repayment that is in arrears shall also be included" and redesignated it (4).

§ 37-106-12. Postsecondary Education Financial Assistance Trust Fund created; components of fund; investment of principal.

(1) There is hereby created in the State Treasury a special trust fund to be known as the Postsecondary Education Financial Assistance Trust Fund. The trust fund shall consist of all monies designated by the Legislature for deposit therein and any gift, donation, bequest, trust, grant, endowment, transfer of money or securities, or any other monies from any source whatsoever, designated for deposit in the trust fund.

(2) The principal of the trust fund shall remain inviolate and shall be invested by the State Treasurer in the same manner as provided by Section 27-105-33, Mississippi Code of 1972, for the investment of excess state funds. Interest and income derived from investment of the principal of the trust fund shall be appropriated by the Legislature for expenditure as provided in this chapter.

SOURCES: Laws, 2014, ch. 538, § 5, eff from and after July 1, 2014.

§ 37-106-13. Repealed.

Repealed by Laws, 1991, ch. 547, § 14, eff from and after July 1, 1991.

[Laws, 1975, ch. 507, § 6(1), eff from and after passage (approved April 8, 1975)].

Editor's Note — Former § 37-106-13 provided for the establishment of a post-secondary education assistance fund. For current provisions pertaining to post secondary education assistance, see §§ 37-143-1 et seq.

Laws of 1991, ch. 547, § 18, effective July 1, 1991, provides as follows:

"SECTION 18. The Board of Trustees of State Institutions of Higher Learning is hereby authorized to honor all contracts and commitments for the provision of loans or scholarships existing under prior programs repealed by this act."

§ 37-106-14. Use of funds appropriated for implementing forgivable loan programs.

(1) The Legislature may appropriate funds annually to implement, administer and make awards under the programs provided for in this chapter. The board may seek, accept and expend funds from any source, including private business, industry, foundations and other groups as well as any federal or other governmental funding available for this purpose.

(2) Subject to the availability of funds, it is the intent of the Legislature to first fund grant awards to eligible students. If funds are insufficient to fully fund grant awards to eligible students, grant awards shall be prorated among all eligible students. No student shall receive any combination of student financial aid in excess of the cost of attendance. After grant awards are made, it is the intent of the Legislature to fund forgivable loan awards to eligible renewal students and then to eligible new students on a first-come, first-served basis.

(3) At the end of the fiscal year, any unexpended balances appropriated by the Legislature for the implementation or administration of programs provided for in this chapter shall not lapse into the State General Fund, but shall carry over and be available for expenditure in the succeeding fiscal year, subject to appropriation therefor by the Legislature.

SOURCES: Laws, 2014, ch. 538, § 6, eff from and after July 1, 2014.

§ 37-106-15. Administration of chapter.

The earned interest paid into the post-secondary education assistance fund as provided in Section 37-106-13 shall be utilized to finance the cost of administration of this chapter. All remaining interest after payment of such administrative expenses shall be utilized to provide additional loans.

SOURCES: Laws, 1975, ch. 507, § 6(2); Laws, 1976, ch. 346, eff from and after passage (approved April 14, 1976).

Editor's Note — Section 37-106-13, referred to in this section, was repealed by Laws of 1991, ch. 547, § 14, eff from and after July 1, 1991. For current provisions pertaining to post secondary education assistance, see §§ 37-143-1 et seq.

§ 37-106-17. Applications for assistance.

Any student desiring financial assistance shall submit an application to the board on an annual basis. The director shall adhere to the board's rules and regulations promulgated under authority of this chapter in determining the eligibility of each applicant and in administering the programs authorized in this chapter.

SOURCES: Laws, 1975, ch. 507, § 6(3); Laws, 2014, ch. 538, § 7, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment deleted "and who is in attendance or accepted for attendance at an approved institution" following "desiring financial assistance" and inserted "on an annual basis" at the end of the first sentence; substituted "adhere to the board's rules and" for "use the criteria as are established by the" and inserted "and in administering the programs authorized in this chapter" at the end of the second sentence; and deleted the last two sentences, which read "If it appears to the board that sufficient funds will not be available to fund loans to all eligible applicants, the board may provide that priority shall be given those applicants with the greatest demonstrated financial need, and may limit the amount of financial assistance to any applicant to the amount of such applicant's demonstrated financial need. Provided, however, that no such loan shall be approved unless the repayment of such loan is guaranteed by an agency of the federal government."

Cross References — Eligibility for scholarships and loans based on compliance with Federal Military Selective Service Act, see § 37-101-283.

§ 37-106-19. Contract for repayment to be signed by applicant.

Each eligible applicant before being granted financial assistance through a forgivable loan program under this chapter shall enter into a contract with the board, which shall be deemed a contract with the State of Mississippi, agreeing to the terms and conditions upon which the financial assistance shall be granted to him, which shall include full repayment of all monies granted. Said contract shall include such terms and provisions as shall carry out the full purpose and intent of this chapter; and the form shall be prepared and approved by the Attorney General of this state, and shall be signed by the director and the applicant. All disabilities of minority are removed for purposes of this chapter.

SOURCES: Laws, 1975, ch. 507, § 6(4); Laws, 2014, ch. 538, § 8, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment inserted "through a forgivable loan program under this chapter" near the beginning of the first sentence; and substituted "signed by the director and the applicant" for "signed by the chairman of the board, countersigned by the director, and signed by the applicant" in the second sentence.

Cross References — Authority of the Attorney General to prepay court costs in civil actions for the recovery of delinquent sums owed to the Mississippi Guaranteed Student Loan Program, see § 7-5-66.

RESEARCH REFERENCES

ALR. Liability of private vocational or trade school for fraud or misrepresentations inducing student to enroll or pay fees. 85 A.L.R.4th 1079.

§ 37-106-21. Conditions and limitations on disbursal of funds.

Unless otherwise required to secure a guarantee of a loan, all funds disbursed under the provisions hereof shall be subject to the following conditions and limitations:

(a) The annual award to any recipient may be paid as required by federal laws and regulations governing the Guaranteed Student Loan Program.

(b) Payments under this chapter shall be made by the State Treasurer upon certification by the board of final approval of the recipient of each loan.

(c) Payments shall be made directly to the approved institution attended or to be attended by the student named in such certificate by check or transfer of funds made payable to the institution and accompanied by a student roster.

(d) In the event a student on whose behalf an award has been paid shall not be enrolled and carrying a minimum academic load or program as of the fifteenth classroom day following the beginning of the term for which such award was paid, the institution shall refund to the state the amount paid on behalf of such student. If at any time during the period of the loan, the student withdraws and is entitled to any refund or remittance of fees or tuition, such amount shall be repaid into the fund.

SOURCES: Laws, 1975, ch. 507, § 7; Laws, 1976, ch. 345; Laws, 1987, ch. 415, § 2; Laws, 2014, ch. 538, § 9, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment redesignated former (1) through (4) as present (a) through (d); substituted "by check or transfer of funds made payable to the institution and accompanied by a student roster" for "by check made payable to both the student and the institution as required by laws governing the Guaranteed Student Loan Program" in (c).

Cross References — Eligibility for scholarships and loans based on compliance with Federal Military Selective Service Act, see § 37-101-283.

§ 37-106-23. Funds to implement federal guaranteed student loan program.

The board shall use the funds available to make possible the implementation of a guaranteed student loan program as provided for by any act of congress.

SOURCES: Laws, 1975, ch. 507, § 8; Laws, 1987, ch. 415, § 3, eff from and after July 1, 1987.

Cross References — Eligibility for scholarships and loans based on compliance with federal Military Selective Service Act, see § 37-101-283.

§ 37-106-25. Repealed.

Repealed by Laws of 2014, ch. 538, § 10, effective from and after July 1, 2014.

§ 37-106-25. [Laws, 1975, ch. 507, § 9, eff from and after passage (approved April 8, 1975]

Editor's Note — Former § 37-106-25 provided a preference for renewals.

§ 37-106-27. Cooperation with Student Loan Marketing Association.

The board shall have full authority to deal with the Student Loan Marketing Association (Sallie Mae) and to participate in any and all of its programs, including investment in its stock, and to deal with and to participate in any programs of any other secondary market for student loans.

SOURCES: Laws, 1975, ch. 507, § 10; Laws, 1983, ch. 340, eff from and after passage (approved March 14, 1983).

§ 37-106-29. Mississippi Resident Tuition Assistance Grant Program for college or university undergraduate students.

(1) There is established the Mississippi Resident Tuition Assistance Grant Program for college or university freshmen, sophomores, juniors and seniors to be administered by the Mississippi Postsecondary Education Financial Assistance Board established under Section 37-106-9, Mississippi Code of 1972, which shall set the dates and deadlines for applying for an award under this section. The board shall establish such rules and regulations as it deems necessary and proper to carry out the purposes and intent of this section.

(2) The board shall approve grants to full-time freshmen, sophomore, junior and senior Mississippi residents who meet the general requirements for student eligibility as provided in subsection (4) of this section.

(3) Mississippi Resident Tuition Assistance Grants shall be for Mississippi resident students from any Mississippi family whose prior year adjusted gross income (AGI) exceeds the maximum allowed to qualify for full Pell Grant eligibility and campus-based federal aid. Those Mississippi students qualifying for less than the full Pell Grant award shall receive a Mississippi Resident Tuition Assistance Grant in an amount not to exceed the maximum Pell Grant allowable for that individual student. The award shall be applied to tuition, rooms and meals, books, materials and fees not to exceed One Thousand Dollars ($1,000.00) for junior and senior students attending state institutions of higher learning in Mississippi or four-year regionally accredited, state-approved, nonprofit colleges and universities in Mississippi, and Five Hundred Dollars ($500.00) for freshmen and sophomores attending state institutions of higher learning or public community or junior colleges in Mississippi, or regionally accredited, state-approved, nonprofit two-year or four-year colleges in Mississippi, which will be prorated per term, semester or quarter of the academic year for costs of attendance, calculated according to the formula specified in subsection (8) of this section.

(4) The general requirements for initial eligibility of students for Mississippi Resident Tuition Assistance Grants consist of the following:

(a) Member of a Mississippi family whose prior year adjusted gross income (AGI) exceeds the maximum allowed to qualify for Pell Grant eligibility and campus-based federal aid.

(b) Acceptance for enrollment at any state institution of higher learning or public community or junior college located in Mississippi, or any regionally accredited, state-approved, nonprofit two-year or four-year college or university located in Mississippi and approved by the board.

(c) Completion of a secondary education as follows:

(i) Graduation from high school verified by the institution before disbursement of award with a minimum grade point average of 2.5 calculated on a 4.0 scale after seven (7) semesters as certified by the high school counselor or other authorized school official on the application; or

(ii) Attendance at a home education program during grade levels 9 through 12; or

(iii) Satisfactory completion of the High School Equivalency Diploma; or

(iv) Successful completion of the International Baccalaureate Program.

(d) A minimum score of fifteen (15) on the ACT test except that any student entering a vocational or technical program of study, or who has satisfactorily completed the High School Equivalency Diploma Test and attends a community or junior college will not be required to have a test score under the ACT unless a student enrolls in courses of academic study.

(e) Any student currently enrolled in any qualified institution shall have to only meet the same requirements as students who are applying for a renewal award.

(5) By accepting a Mississippi Resident Tuition Assistance Grant, the student is attesting to the accuracy, completeness and correctness of information provided to demonstrate the student's eligibility. Falsification of such information shall result in the denial of any pending grant and revocation of any award currently held to the extent that no further payments shall be made. Any student knowingly making false statements in order to receive a grant shall be guilty of a misdemeanor punishable, upon conviction thereof, by a fine of up to Ten Thousand Dollars ($10,000.00), a prison sentence of up to one (1) year in the county jail, or both, and shall be required to return all Mississippi Resident Tuition Assistance Grants wrongfully obtained.

(6) Eligibility for renewal of Mississippi Resident Tuition Assistance Grants shall be evaluated at the end of each semester, or term, of each academic year. As a condition for renewal, a student shall:

(a) Make steady academic progress toward a certificate or degree, as outlined in the school Satisfactory Academic Progress Standards and certified by the institution's registrar.

(b) Maintain continuous enrollment for not less than two (2) semesters or three (3) quarters in each successive academic year, unless granted an exception for cause by the administering board; examples of cause may include student participation in a cooperative program, internship program or foreign study program. If a student fails to maintain continuous enrollment, and is not granted an exception for cause by the administering board, the student is ineligible to receive the Mississippi Resident Tuition Assistance Grant during the following semester or trimester or term of the regular academic year.

(c) Have a cumulative grade point average of at least 2.50 calculated on a 4.0 scale at the end of each semester or trimester or term.

(7) Each student, each year, must complete a Free Application for Federal Student Aid form or a Statement of Certification as designed by the administering board to determine his/her eligibility for a Mississippi Resident Tuition Assistance Grant.

(8)(a) The amount of the Mississippi Resident Tuition Assistance Grant awarded to any one (1) student, up to the maximum amount provided in subsection (3) of this section, shall be the difference of the student's cost of attendance at his accredited college of choice and the amount of federal aid such student may receive, not to supplant but to supplement the amount of any federal aid awarded to the student. Cost of attendance is the tuition and fees of the applicable institution plus an allowance for room and meals and books and materials.

(b) Payment of the Mississippi Resident Tuition Assistance Grant shall be made payable to the recipient and the educational institution and mailed directly to the institution, to be applied first to tuition.

(9) In order for an institution to remain eligible for its students to participate in the Mississippi Resident Tuition Assistance Grant Program, the institution shall comply with the following requirements:

(a) A complete and accurate roster of the eligibility status of each awarded student shall be made to the board for each term, semester or quarter of the academic year the student receives a Mississippi Resident Tuition Assistance Grant.

(b) The institution is required to make refunds to the Mississippi Resident Tuition Assistance Grant Fund for any funds which have not been disbursed to the recipient, in the case of students who have received a grant but who terminate enrollment during the academic term, semester or quarter of the academic year if an institution's refund policies permit a student to receive a refund in such instance. The recipient shall be responsible for the refund of any funds which have been disbursed by the institution in such instance.

(c) If a student drops below full-time status but does not terminate all enrollment during the term, semester or quarter of the academic year no refund will be required for that term. However, that student is ineligible to receive the Mississippi Resident Tuition Assistance Grant during the following term, semester or quarter of the regular academic year.

(d) The board may conduct its own annual audits of any institution participating in the Mississippi Resident Tuition Assistance Grant Program. The board may suspend or revoke an institution's eligibility to receive future monies under the program if it finds that the institution has not complied with the provisions of this section. In determining a student's initial eligibility, the number of prior semesters enrolled will not be counted against the student.

(10) No student may receive a Mississippi Resident Tuition Assistance Grant for more than the equivalent semesters or quarters required to complete one (1) baccalaureate degree or one (1) certificate or associate degree program per institution.

(11) No student receiving a Mississippi Eminent Scholars Grant as provided in Section 37-106-31 shall be eligible to receive the Mississippi Resident Tuition Assistance Grant pursuant to this section unless he is eligible for such award after the Mississippi Eminent Scholars Grant has been considered by the board when conducting an assessment of the financial resources available to the student. In no case shall any student receive any combination of student financial aid that would exceed the cost of attendance, as defined in subsection (8)(a).

For purposes of this section, certificated shall mean, but not be limited to, all postsecondary vocational programs in eligible institutions approved by the board.

SOURCES: Laws, 1995, ch. 504, § 1; Laws, 1996, ch. 549, § 1; Laws, 1998, ch. 565, § 2; Laws, 2006, ch. 596, § 3; Laws, 2014, ch. 398, § 8; Laws, 2014, ch. 538, § 11, eff from and after July 1, 2014.

Joint Legislative Committee Note — Section 11 of Chapter 538, Laws of 2014, effective from and after July 1, 2014 (approved May 1, 2014), amended this section. Section 8 of Chapter 398, Laws of 2014, effective from and after July 1, 2014 (approved March 19, 2014), also amended this section. As set out above, this section reflects the language of Section 11 of Chapter 538, Laws of 2014, which contains language that specifically provides that it supersedes § 37-106-29 as amended by Chapter 398, Laws of 2014.

Editor's Note — Laws of 1998, ch. 565, § 4 provides as follows:

"SECTION 4. All new programs authorized under this House Bill No. 1273 shall be subject to the availability of funds specifically appropriated therefor by the Legislature during the 1998 Regular Session or any subsequent session. It is the intent of the Legislature that this act shall be codified but that no amendment to a Code section or repeal of a Code section enacted by this House Bill No. 1273 shall take effect until the Legislature has funded any new programs authorized hereunder by line item appropriation, said line item appropriation to be certified by the Legislative Budget Office to the Secretary of State."

The Director of the Legislative Budget Office, in a letter dated July 22, 1998, certified the availability of funds for the programs authorized under Laws of 1998, ch. 565.

Amendment Notes — The first 2014 amendment (ch. 398), in (4)(b), substituted "two-year or four-year college" for "four- or two-year college," substituted "subsection (4)(d) of this section" for "subsection (d) of this section" and deleted "37-106-29(4) thereafter, and substituted "High School Equivalency Diploma" for "General Educational Development Test (GED)" the first time it appears and "General Education Development" the second time it appears; inserted "Section" in (4)(c); and substituted "pursuant to this section" for "pursuant to section 37-106-29" in (12).

The second 2014 amendment (ch. 538) substituted "board shall approve" for "college or university shall approve" in (2); in (3), inserted "resident," and substituted "students qualifying for less than the full Pell Grant award shall" for "students receiving less than the full Pell Grant award, as determined by the institution, shall"; in (4), rewrote and divided former (b) into present (b) through (e); deleted former (c) and (d) which provided that resident status for purposes of receiving grants under the section was to be determined as set forth in Sections 37-103-1 through 37-103-29, and listed the institutions of higher learning students must attend to qualify for the grants; substituted "administering board" for "administering agency" both times it appears in (6)(b); deleted former (11), which related to the legislative intent to fully fund grant awards to eligible students; redesignated former (11) as (12), and therein, in the first paragraph, substituted "pursuant to this section" for "pursuant to section 37-106-29," and in the last paragraph, substituted "eligible institutions approved by the board" for "eligible institutions as identified in subsection (4)(d) of this section."

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18, 23.

CJS. 14A C.J.S., Colleges and Universities §§ 32-34.

§ 37-106-31. Mississippi Eminent Scholars Grant Program.

(1) There is created a Mississippi Eminent Scholars Grant Program, to be administered by the Mississippi Postsecondary Education Financial Assistance Board established under Section 37-106-9. The board shall set the dates that will serve as the deadlines for applying for an award under this section and award scholarships to each Mississippi student who:

(a)(i) Is recognized by the merit or achievement programs of the National Merit Scholarship Corporation or the National Achievement Scholarship as a semifinalist or finalist, and has obtained a minimum cumulative grade point average of 3.5 calculated on a 4.0 scale in high school subjects acceptable for credit toward a diploma, after seven (7) semesters certified by the high school counselor or other authorized school official on the application and graduation from high school verified by the institution before disbursement of award; or

(ii) Has scored twenty-nine (29) on the American College Testing Program or its equivalent and has obtained a minimum cumulative grade point average of 3.5 calculated on a 4.0 scale after seven (7) semesters certified by the high school counselor or other authorized school official on the application and graduation from high school verified by the institution before disbursement of award, or the equivalent in high school subjects acceptable for credit toward a diploma; or

(iii) Has attended a home education program during grade levels 9 through 12 and has scored twenty-nine (29) on the American College Testing Program or its equivalent.

(b) Meets the general requirements for student eligibility, except as otherwise provided in this section.

(c) Files, before the deadline, an application for an award during his last year in high school, or before the expiration of the third school year succeeding the year of his high school graduation.

(d) Attends, on a full-time basis, any state institution of higher learning or public community or junior college, or any regionally accredited, state-approved, nonprofit two-year or four-year college or university located in the State of Mississippi approved by the board.

(e) Enrolls as a "first-time in college" student in Mississippi. Postsecondary academic credit earned prior to or during the summer immediately subsequent to receiving a high school diploma, or while dually enrolled in secondary and postsecondary educational institutions, or while enrolled in the early admission program of a postsecondary institution shall not be considered when determining if a student is enrolling for the first time. However, any student who earns postsecondary academic credit at an institution of higher learning located outside the state shall meet the requirements on grade point average and maximum credit hours set forth in subsection (2)(b) of this section.

(f) Is a resident of the State of Mississippi.

(2)(a) Except for students who earn credits at institutions of higher learning located outside the state, students who apply for awards but do not accept their initial awards may apply to receive awards during subsequent application periods occurring before the expiration of the third school year succeeding the year of their high school graduation. The eligibility of these applicants shall be determined in the same manner as first-time applicants.

(b) Students who receive initial awards and who later do not accept renewal awards may apply to receive awards during subsequent application periods occurring before the expiration of the third school year succeeding the year of their high school graduation. Reinstatement applications will be accepted from these students according to dates set by the Mississippi Postsecondary Education Financial Assistance Board. The eligibility of these applicants shall be determined in the same manner as first-time applicants, except that these students shall be required to have maintained the equivalent of a 3.5 cumulative grade point average on a 4.0 scale for all college work attempted and if the student attended an out-of-state institution, to have completed no more than thirty-six (36) credit hours. The board shall not make awards to reinstatement applicants who submit applications that are received after the deadline set by the Mississippi Postsecondary Education Financial Assistance Board.

(c) The board shall create a renewal application for each student who received the award for one or more terms during the immediately preceding academic year.

(3)(a) The annual award to a student shall be up to Two Thousand Five Hundred Dollars ($2,500.00) for tuition and fees. Payment of the Mississippi Eminent Scholars Grant shall be made payable to the recipient and the educational institution and mailed directly to the institution, to be applied first to tuition.

(b) Within six (6) weeks of the end of regular registration, inclusive of a drop-add period, institutions shall certify to the board the eligibility status of each awarded student. The eligibility status of each student to receive a disbursement shall be determined by each institution as of this date. Institutions shall not be required to reevaluate a student's eligibility status after this date for purposes of amending eligibility determinations previously made. However, an institution shall be requested to make refunds for students who receive award disbursements and terminate enrollment for any reason during the academic term when an institution's refund policies permit a student to receive a refund under the circumstances.

(c) Institutions shall certify to the board the amount of funds disbursed to each student and shall remit to the board any undisbursed advances within sixty (60) days of the end of regular registration.

(4) A recipient shall maintain the equivalent of a 3.5 cumulative grade point average on a 4.0 scale, or shall maintain an approved equivalent student progress evaluation plan, on at least twelve (12) hours per quarter, trimester or semester in order to be eligible for a continuation of the award. No student may receive a Mississippi Eminent Scholars Grant for more than the equivalent semesters or quarters required to complete one (1) degree or certificate program per institution. The award may be renewed annually upon certification of eligibility by the eligible institutions that the recipient meets the necessary qualifications. If any recipient transfers from one university, community college or junior college to another, his award will be transferable, provided he is otherwise eligible for the award. If a student fails to maintain continuous enrollment, and is not granted an exception for cause by the administering board, the student is ineligible to receive the Mississippi Eminent Scholars Grant during the following semester or trimester or term of the regular academic year.

(5) The board may conduct its own annual audits of any institution participating in the Mississippi Eminent Scholars Grant Program. The board may suspend or revoke an institution's eligibility to receive future monies under the program if it finds that the institution has not complied with the provisions of this section.

(6) For purposes of this section, certificated shall mean, but not be limited to, all postsecondary vocational programs in eligible institutions approved by the board.

SOURCES: Laws, 1995, ch. 504, § 2; Laws, 1996, ch. 549, § 2; Laws, 1998, ch. 565, § 3; Laws, 2002, ch. 572, § 1; Laws, 2014, ch. 538, § 12, eff from and after July 1, 2014.

Editor's Note — Laws of 1998, ch. 565, § 4 provides as follows:

"SECTION 4. All new programs authorized under this House Bill No. 1273 shall be subject to the availability of funds specifically appropriated therefor by the Legislature during the 1998 Regular Session or any subsequent session. It is the intent of the Legislature that this act shall be codified but that no amendment to a Code section or repeal of a Code section enacted by this House Bill No. 1273 shall take effect until the Legislature has funded any new programs authorized hereunder by line item appropriation, said line item appropriation to be certified by the Legislative Budget Office to the Secretary of State."

The Director of the Legislative Budget Office, in a letter dated July 22, 1998, certified the availability of funds for the programs authorized under Laws of 1998, ch. 565.

Amendment Notes — The 2014 amendment, in (1), deleted (a)(iv), which read: "Has been certified by the college or university to the Mississippi Postsecondary Education Financial Assistance Board as a Mississippi Eminent Scholar," deleted (c), which read: "Dependents of Mississippi residents who are on military or public service assignments away from Mississippi when such dependents live with such Mississippi residents and receive high school diplomas from non-Mississippi schools shall be exempted," redesignated (d) through (g) as (c) through (f), in (d), substituted "two-year or four-year college" for "four- or two-year college" and "Mississippi approved by the board" for "Mississippi as listed in subsection (4)(d) of Section 37-106-29," rewrote (e), which read: "Enrolls for the first time as a college student in Mississippi. Any student who earns postsecondary academic credit prior to or during the summer immediately subsequent to receiving a high school diploma, who is dually enrolled in secondary and postsecondary educational institutions, or who is enrolled in the early admission program of a postsecondary institution shall be exempt from this requirement," and rewrote (f), which read: "Is a resident of the State of Mississippi. Residency status for purposes of receiving grants under this section shall be determined in the same manner as resident status for tuition purposes as set forth in Sections 37-103-1 through 37-103-29, with the exception of Section 37-103-17"; in (2), divided former (a) into present (a) and (b), in (a), added the exception at the beginning and the last sentence, in (b), deleted "Similarly" from the beginning, substituted "may apply" for "may reapply" near the beginning, substituted "Reinstatement applications will be accepted from these students according" for "The institution shall accept reinstatement applications according" and "Financial Assistance Board. The eligibility of these applicants shall be determined" for "Financial Assistance Board and shall determine the eligibility of such applicants" and "these applicants, except that these students shall be" for "such applicants in the same manner as first-time applicants, except that students shall be" and inserted "and if the student attended...credit hours," and redesignated (b) as (c); in (4), substituted "Mississippi Eminent Scholars Grant" for "Mississippi Eminent Scholars Fund award" in the second sentence, and "administering board" for "administering agency" in the last sentence; and in (6), substituted "eligible institutions approved by the board" for "eligible institutions as identified in subsection (4)(d) of Section 37-106-29," and made minor punctuation changes.

Cross References — Student receiving Eminent Scholars Grant ineligible for Resident Tuition Assistance Grant unless eligible for such award after Eminent Scholars Grant has been considered by board when conducting assessment of financial resources, see § 37-106-29.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 20 et seq.

CJS. 14A C.J.S., Colleges and Universities §§ 32-34.

§ 37-106-33. Repealed.

Repealed by Laws of 2014, ch. 538, § 13, effective from and after July 1, 2014.

§ 37-106-33. [Laws, 1995, ch. 504, § 3, eff from and after passage (approved March 28, 1995.]

Editor's Note — Former § 37-106-33 provided for the use of funds appropriated to support certain programs. For present similar provisions, see § 37-106-14.

§ 37-106-35. Assistant teacher forgivable loan program.

(1) There is established the assistant teacher forgivable loan program for the purpose of assisting eligible assistant teachers to become certificated teachers through the awarding of forgivable loans and to attract and retain qualified teachers for those geographical areas of the state and academic subject areas in which there exist a critical shortage of teachers. The forgivable loan program shall be implemented and administered by the board and is subject to the availability of funds appropriated specifically therefor by the Legislature.

(2) Under the assistant teacher forgivable loan program, qualified assistant teachers may be awarded financial assistance in an amount that is equal to the actual cost of three (3) three-hour academic courses per year. However, no assistant teacher may receive assistance through the program for more than fifteen (15) three-hour academic courses. An assistant teacher forgivable loan shall not be based upon an applicant's financial need, and the receipt of any other forgivable loan or financial assistance shall not affect an assistant teacher's eligibility under the program.

(3) In order to qualify for an assistant teacher, forgivable loan, an applicant must satisfy the following requirements:

(a) The applicant must be employed full-time as an assistant teacher with a local school district;

(b) The applicant must be accepted for enrollment at a baccalaureate degree-granting institution of higher learning in the State of Mississippi that is regionally accredited and approved by the board;

(c) The assistant teacher must maintain a minimum cumulative grade point average of 2.5 calculated on a 4.0 scale for all courses funded through the assistant teacher forgivable loan program; and

(d) The assistant teacher must have expressed in writing a present intention to teach in a critical teacher shortage geographic or academic subject area.

(4) At the beginning of the school year next succeeding the date on which a person who has received an assistant teacher forgivable loan obtains a baccalaureate degree, that person shall begin to render service as a certificated teacher in a school district or academic subject area, or both, designated by the State Board of Education. The board shall establish by rule and regulation the duration of teaching service due for recipients of forgivable loans based upon the number of academic hours funded through the assistant teacher forgivable loan program. Repayment and conversion terms shall be the same as those outlined in Section 37-106-53.

SOURCES: Laws, 1996, ch. 452, § 3; Laws, 2014, ch. 538, § 14, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment substituted "forgivable loan" and "forgivable loans" for "scholarship" and "scholarships" everywhere they appear; in (1), deleted "financial" following "awarding of," and deleted "of Trustees of State Institutions of Higher Learning" following "administered by the board"; in (2), substituted "applicant's financial need" for "applicant's eligibility for financial aid"; substituted "Mississippi that is regionally accredited and approved by the board" for "Mississippi which is accredited by the Southern Association of Colleges and Schools and approved by the Mississippi Commission on College Accreditation or at any accredited nonprofit community or junior college in the state" in (3); deleted former (4), which read: "The Board of Trustees of State Institutions of Higher Learning shall develop a system that provides for the payment of scholarship funds directly to the educational institution at which a recipient of an assistant teacher scholarship is enrolled"; redesignated former (5) as (4) and therein substituted "The board shall establish by rule and regulation the duration" for "The State Board of Education shall establish the duration," deleted the former last sentence, which read: "Any person failing to meet teaching requirements shall be liable for the amount of the corresponding scholarship received, plus interest accruing at the current Stafford Loan rate," and added the last sentence.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Commission on College Accreditation, see § 37-101-241.

§ 37-106-37. Teacher Education Scholars Forgivable Loan Program.

(1) There is created the Teacher Education Scholars Forgivable Loan Program to be administered by the board. The program shall provide an annual forgivable loan not to exceed Fifteen Thousand Dollars ($15,000.00) for each approved teacher education scholar who is enrolled in one of Mississippi's public or private universities in the junior year and is admitted into a teacher education program. Additionally, the program shall provide an annual scholarship not to exceed Fifteen Thousand Dollars ($15,000.00) for each approved teacher education scholar who is enrolled in one (1) of Mississippi's public or private universities in the freshman year and intends to enter into a teacher education program.

(2) Qualifying teacher education scholars must hold a minimum 28 ACT score and a 3.5 GPA.

(3) A student may receive a forgivable loan from the program for four (4) consecutive years if the student remains enrolled full time in the program and makes satisfactory progress toward a baccalaureate degree with a major in education.

(4)(a) If a teacher education scholar graduates and is employed as a teacher by a Mississippi district school board, the scholar is not required to repay the forgivable loan amount so long as the scholar teaches in a Mississippi public school. The entire forgivable loan amount shall be forgiven if the scholar remains employed as a Mississippi public school teacher for five (5) years.

(b) Any teacher who enters the education scholar program and graduates, and is employed as a teacher by a Mississippi public school board, in a school rated as "D" or "F," in addition to being exempt from the repayment of loan requirement while employed as a Mississippi public school teacher, such teacher education scholar shall also receive an annual salary supplement of Six Thousand Dollars ($6,000.00) for each year the scholar remains in the "D" or "F" school, up to a maximum of five (5) years. Each scholar employed in a Mississippi public school under the provisions of this paragraph shall endeavor, within the five-year period of initial employment, to fulfill the necessary requirements to acquire a Master Teacher certificate from the National Board of Professional Teaching Standards, at which time the scholar shall be eligible to receive an annual salary supplement for such National Board Certified teachers under the provisions of Section 37-19-7(2)(a)(i). However, if any teacher education scholar graduate receiving an annual salary supplement provided for in this paragraph (b) shall complete the certification requirements to become a National Board Certified teacher within the five-year period of eligibility for salary supplementation, that teacher shall be entitled to only the annual salary supplement provided for such National Board Certified teachers, such that the teacher receives only one (1) annual salary supplement of Six Thousand Dollars ($6,000.00).

(5) Repayment and conversion terms shall be the same as those outlined in Section 37-106-53.

(6) The board shall promulgate such rules as are necessary to administer the teacher education scholars program and establish necessary eligibility criteria not specifically set forth in this section.

SOURCES: Laws, 2013, ch. 494, § 3; Laws, 2014, ch. 538, § 15, eff from and after July 1, 2014.

Editor's Note — Laws of 2013, ch. 494, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Mississippi Education Works Program.' "

Chapter 494, Laws of 2013, amended Sections 37-3-53, 37-16-7, 37-18-1 and 37-19-7 and enacted Sections 37-19-9 and 37-106-37.

Amendment Notes — The 2014 amendment substituted "forgivable loan" for "scholarship" throughout; in (1), substituted "Scholars Forgivable Loan Program to be administered by the board" for "Scholars Program administered by the board of Trustees of State Institutions of Higher Learning"; in (5), substituted "Repayment and conversion terms shall be the same as those outlined in Section 37-106-53" for "If a teacher education scholar does not graduate, or if the scholar graduates but does not teach in a Mississippi public school, the scholar must repay the total amount awarded, plus annual interest at a rate to be determined by the Board of Trustees of State Institutions of Higher Learning" and deleted (5)(a) through (e), which provided specifics for repayment of scholarships by scholars who did not graduate or graduated but did not teach in a Mississippi public school; and deleted "of Trustees of State Institutions of Higher Learning" following "board" in (6).

§ 37-106-39. Mississippi Law Enforcement Officers and Firefighters Scholarship.

(1) There is established the Mississippi Law Enforcement Officers and Firefighters Scholarship.

(2) Except as provided in this section, if any Mississippi law enforcement officer, full-time firefighter or volunteer firefighter shall suffer or has suffered fatal injuries or wounds or become permanently and totally disabled as a result of injuries or wounds which occurred in the performance of the official and appointed duties of his or her office, his or her spouse, child or children shall

be entitled to an eight-semester scholarship without cost, exclusive of books, food, school supplies, materials and dues or fees for extracurricular activities, at any state-supported college or university of his or her choice within this state.

(a) No child shall be entitled to receive benefits during any semester or quarter when said child has reached the age of twenty-three (23) years on the first day of said semester or quarter. However, any child who has begun the process of acquiring college credits under the provisions of this section prior to attaining the age of twenty-three (23) years shall be entitled to the full eight-semester scholarship if his or her college instruction was interrupted for any reason.

(b) Scholarship benefits shall not accrue hereunder to any person if the wounds or injuries suffered by any law enforcement officer, full-time firefighter or volunteer firefighter are self-inflicted or if his death is self-induced.

(3) Eligibility for renewal of the scholarship shall be evaluated each academic year at the end of each semester or term. As a condition for renewal, a student shall:

(a) Make steady academic progress toward a certificate or degree, as outlined in the school Satisfactory Academic Progress Standards and certified by the institution's registrar; and

(b) Have a cumulative grade point average of at least 2.5 calculated on a 4.0 scale at the end of each academic year.

(4) For the purposes of this section, these words and phrases shall be defined as follows:

(a) "Mississippi law enforcement officers" shall be defined as follows:

(i) "State highway patrolmen" means all law enforcement officers, regardless of department or bureau, of the Mississippi Highway Safety Patrol.

(ii) "Municipal police officers" means all law enforcement officers of any municipality who are regular duty personnel on full-time status, auxiliary or reserve officers, or those serving on a temporary or part-time status.

(iii) "Sheriffs" and "deputy sheriffs" means all law enforcement officers of full-time duty status on a regular basis serving the sheriff's department of any county, deputy sheriffs who are engaged in administrative or civil duty, auxiliary or reserve deputies, or deputy sheriffs serving in a temporary capacity or part-time basis.

(iv) "Constables" means all duly elected constables of any beat of any county within the state while actually engaged in the performance of their duties concerning the criminal laws of the county and state.

(v) "Conservation officers" means all duly appointed game wardens employed by the State of Mississippi on a full-time duty status while actually engaged in the performance of their duties concerning the game laws of the state.

(vi) "Alcoholic Beverage Control Division agents and inspectors" means all duly appointed agents and investigators of the Alcoholic

Beverage Control Division of the Mississippi Department of Revenue on a full-time duty status while actually engaged in the performance of their duties concerning the alcoholic beverage control laws of the state.

(vii) Members of the National Guard serving as peace officers when ordered to state emergency duty under authority vested in the Governor by the Constitution and laws of the state.

(viii) "Tax commission scales enforcement officers" means all duly appointed scales enforcement officers of the Mississippi Department of Revenue on a full-time duty status while actually engaged in the performance of their duties.

(ix) Duly appointed agents of the Mississippi Bureau of Narcotics.

(x) Correctional, probation and parole officers employed by the Mississippi Department of Corrections.

(b) "Mississippi full-time firefighters" shall be defined as all firefighters employed by any subdivision of the State of Mississippi on a full-time duty status while actually engaged in the performance of their duties, and volunteer firefighters shall be defined as any volunteer firefighter registered with the State of Mississippi or a political subdivision thereof on a volunteer firefighting status while actually engaged in the performance of firefighting duties.

(c) "Child" or "children" means natural children, adopted children or stepchildren.

(d) "Spouse" means a person who was, at the time of the death of the decedent, legally married to a Mississippi law enforcement officer, full-time firefighter, or volunteer firefighter, or in the case of a law enforcement officer, full-time firefighter or volunteer firefighter who suffered fatal injuries or wounds, prior to or after March 13, 1990, who has not remarried.

(5)(a) Any law enforcement officer, full-time firefighter or volunteer firefighter claiming permanent and total disability shall be qualified or disqualified for a claim under this section based on examination and review of the following four (4) documents:

(i) A letter from the officer's or firefighter's former supervisor or employer stating whether the officer or firefighter is disabled as a result of injuries or wounds that occurred in the performance of the official duties of his office;

(ii) A statement from the officer's or firefighter's physician stating whether the officer or firefighter is disabled and the reason for that disability;

(iii) Verification from the Public Employees' Retirement System; and

(iv) Verification from the Social Security Administration.

(b) If the law enforcement officer, full-time firefighter or volunteer firefighter suffered fatal injuries or wounds, a claim under this section shall be based on examination and review of the following two (2) documents:

(i) A letter from the officer's or firefighter's former supervisor or employer stating whether he suffered fatal injuries in the performance of the official duties of his office; and

(ii) A death certificate.

(6) Any applicant qualified and desiring a scholarship under the provisions of this section shall apply in writing to the board. The board shall make inquiries into each application and shall make the investigation as it deems proper to establish and validate all claims before a scholarship is granted.

SOURCES: Laws, 2014, ch. 538, § 16, eff from and after July 1, 2014.

Cross References — County constables generally, see §§ 19-19-1 et seq.

County sheriffs generally, see §§ 19-25-1 et seq.

Municipality police and police departments generally, see §§ 21-21-1 et seq.

Death benefit paid to or for benefit of dependent children of firemen and policemen, see §§ 21-29-145, 21-29-255, and 21-29-323.

Death benefit paid to surviving children of law enforcement officers under Officers and Fire Fighters Death Benefits Trust Fund, see § 45-2-1.

Conservation officers generally, see §§ 49-1-9 through 49-1-44. “Game warden” defined as “conservation officer,” see § 49-1-12.

Fees assessed for violation of § 97-15-29 to be used for scholarship program established under this section, see § 97-15-29.

§ 37-106-41. Scholarships for children of prisoners of war or missing in action in Southeast Asia.

(1) If any member of the armed services, whose official house of record and residence is within the State of Mississippi, is officially reported as being either a prisoner of war or missing in action in Southeast Asia or has been a prisoner of a foreign government as the result of a military action against the United States naval vessel, Pueblo, his child or children shall be entitled to an eight-semester scholarship without cost, exclusive of books, food, school supplies, materials and dues or fees for extracurricular activities at any state-supported college or university of his choice within this state. However, no child will be entitled to receive benefits during any semester or quarter when said child has reached the age of twenty-three (23) years on the first day of the semester or quarter.

(2) The provisions of this section shall apply to the child or children of any member of the armed services who is officially reported as being either a prisoner of war or missing in action in Southeast Asia whose spouse was a resident of this state for a period of not less than ten (10) years during her minority and is a resident or physically resides within this state and does continually reside within this state at the time of enrollment and during the enrollment, and is a resident or physically resides within this state as of April 9, 1973.

(3) It is further provided that the provisions of this section shall apply to the child or children of any person who was a resident of this state at the time he was inducted into the Armed Forces of the United States of America and who is either a former prisoner of war or officially reported as being a prisoner of war or missing in action in Southeast Asia and who, or his spouse if she was a resident of this state for a period of not less than ten (10) years during her minority, is a resident of this state and at the time of enrollment and during

the enrollment of his child or children at any state-supported college or university in this state resided or resides in this state.

(4) Any applicant qualified and desiring a scholarship under this section shall apply in writing to the board. The board shall make inquiries into each such application and shall make the investigation as it deems proper to establish and validate all claims made under this section before a scholarship is granted.

SOURCES: Laws, 2014, ch. 538, § 17, eff from and after July 1, 2014.

Cross References — Allocation for student loans under Mississippi Private Activity Bonds Allocation Act, see § 31-23-63.

Eligibility for loans and scholarships based on compliance with federal Military Selective Service Act, see § 37-101-283.

§ 37-106-43. Mississippi Public Management Graduate Intern Program.

(1) There is hereby established an intern educational program to be designated as the Mississippi Public Management Graduate Intern Program to be administered by the board through a program coordinator. The program shall consist of not more than thirty-six (36) positions in the general fields of public management, program analysis and public administration. These positions shall not be included in the number of employees allowed by law within a particular state agency. Graduate intern students shall be temporarily assigned by the program coordinator to specific state or local agencies and offices, including offices of the Legislature. Each participating agency or office shall not employ more than four (4) graduate intern students per year. To qualify for the program, a student must (a) be enrolled as a graduate student in a state university masters program in public administration, public policy and administration, or criminal justice administration; and (b) have committed himself to a field of graduate study directly related to a state or local government public managerial position.

(2) There is hereby created the Mississippi Intern Public Management Education Council to consist of the following members: The chairmen of the various departments of Mississippi institutions of higher learning that offer graduate programs in one of the following: public administration, public policy and administration, and criminal justice administration. The council shall elect from its membership a chairman, which shall be a rotating, one-year appointment. The council shall meet at the place and time designated by the chairman at least twice but no more than six (6) times per year.

(3) The council shall adopt, amend and repeal the rules and regulations as it deems necessary to establish standards and ensure the orderly execution of the objectives of the intern educational program, not inconsistent with the provisions of this section. The regulations shall be submitted to the board for implementation by the program coordinator. The council shall review and evaluate the program on a yearly basis and submit its findings to the program coordinator.

(4) There is hereby created the position of Program Coordinator who shall be the Chief Administrative Officer of the Mississippi Public Management Graduate Intern Program. The program coordinator shall be appointed by and be an employee of the agency.

(5) The program coordinator shall administer the policies of the council and supervise and direct all technical activities of the program. The coordinator shall select students to participate in the program based upon the nominees of the participating state institutions of higher learning. No participating university shall be allotted less than three (3) intern students per year unless the university nominates less than three (3) students. The coordinator shall place the intern students in state or local agencies which agree in writing to participate in the program.

(6) The program coordinator shall prepare and deliver to the Legislature and to the Governor an annual report describing the operation and progress of the Mississippi Public Management Graduate Intern Program, including a detailed statement of expenditures and any recommendations the board may have.

(7) It shall be the duty and responsibility of universities participating in the intern program to nominate qualified graduate students to the program and to keep the program coordinator fully apprised of the academic development of the intern student, including any change in the student's educational status.

(8) State or local agencies participating in the intern program shall employ intern students with the expectation that they shall contribute to agency policy decisions, participate in managerial activities, and deliver agency services. Intern graduate students shall receive compensation on the basis of their professional work experience, but shall receive no less than Seven Hundred Fifty Dollars ($750.00) per month or Four Thousand Five Hundred Dollars ($4,500.00) for a six-month work period. In addition to the salary, students shall be reimbursed for necessary expenses and mileage authorized by law for travel to seminars, workshops and training sessions, as well as other related professional travel expenses. When the student has received his graduate degree, the agency may offer him a permanent position with the state or local agency or office, assuming funding and position openings are available.

(9) Intern students shall submit an evaluation of the intern program and an assessment of its educational value to the program coordinator at the end of each work period.

SOURCES: Laws, 2014, ch. 538, § 18, eff from and after July 1, 2014.

§ 37-106-47. Authorization to operate forgivable loan programs.

(1) The board is authorized and empowered to operate the following forgivable loan programs of like character, operation and purpose to the foregoing enumerated programs to encourage the participation of eligible

worthy persons in courses of instruction in its institutions: Graduate Teacher Forgivable Loan, Counselor and School Administrator Forgivable Loan, Southern Regional Education Board Doctoral Scholars Forgivable Loan, and Veterinary Medicine Minority Forgivable Loan.

(2) In furtherance of such power and authority, the board is authorized to adopt and implement rules and regulations declaring and describing the goals and objectives of such forgivable loan programs; to establish the eligibility requirements for entry into such program and required for continuing participation for succeeding years; to determine the maximum amount to be made available to recipients; to delineate the terms and conditions of contracts with recipients and establish the service requirements for such contracts, if any; to enter into contracts pertaining to such programs with recipients; to enter into loan agreements and other contracts with financial institutions or other providers of loan monies for forgivable loan and loan repayment participants; and to allocate and utilize such funds as may be necessary for the operation of such forgivable loan programs from the annual appropriation for student financial aid. In issuing rules and regulations governing the administration of the Graduate Teacher Summer Scholarship (GTSS) program, the board shall provide that certified teachers at the Oakley Youth Development Center under the jurisdiction of the Department of Human Services shall be fully eligible to participate in the program.

SOURCES: Laws, 2014, ch. 538, § 19, eff from and after July 1, 2014.

§ 37-106-49. Authorization to employ loan repayment mechanism for the repayment of forgivable loans.

In connection with the forgivable loan programs administered by the board, and in addition to the funding of the same through the use of state funds, the board is authorized to establish a loan repayment mechanism employing agreements to repay private sector loans for education or guaranteed student loans. As an alternative to the forgivable loans administered by the board, the board is authorized to develop contractual relations with eligible applicants to repay, for and on behalf of the applicants, any or all outstanding private sector loans for education or guaranteed student loans, by undertaking to repay installments of interest and principal according to the requirement of the loans, so long as the applicants perform the terms of their loan or scholarship contracts with the board. The board may establish by rule and regulation the terms of the contracts so as to accomplish the purposes of the loan repayment programs, including, but not limited to: the maximum amount the board will undertake to repay; the maximum duration of the repayment arrangement or the period of required service; the geographical location for approved service; the nature of the service to be rendered; the needed professional occupations; the critical majors or subject areas of concentration; the criteria to determine need and the degree of need required for eligibility; and the scholastic achievement level required to be maintained by the student participants. The board may prescribe other rules and regulations as it deems necessary and proper to carry out the purposes and intent of this section.

SOURCES: Laws, 2014, ch. 538, § 20, eff from and after July 1, 2014.

§ 37-106-51. Authorization to establish consolidated revolving loan fund for operating forgivable loan programs.

The board is authorized to establish a consolidated revolving loan fund for the purpose of providing monies for the operation of all forgivable loan programs authorized to the board and for the purpose of providing monies for the operation of such other loan programs as may be deemed appropriate and authorized by the board from time to time for the furtherance of education of eligible applicants. The board shall be charged with the duty of directing the dispensing of such funds in a manner so as to best effectuate the purpose of this section. Any monies collected in the form of repayment of loans, both principal and interest, shall be deposited in this fund. The board is authorized to maintain such revolving fund in an official state depository and, in accordance with Section 27-105-21, Mississippi Code of 1972, shall invest such funds, less the amount required for current operation, at interest as required by said section. All interest earned on such investments shall likewise be deposited in said fund.

From and after the effective date of this chapter [Laws, 1991, Chapter 547, effective July 1, 1991], the sums maintained in the respective revolving funds being repealed by Chapter 547, Laws, 1991, or other revolving funds being maintained by the board shall become and constitute the monies of the consolidated revolving fund created by this section, wherever such funds may be physically located. The board is hereby authorized to transfer said funds to an official state depository, as aforesaid.

SOURCES: Laws, 2014, ch. 538, § 21, eff from and after July 1, 2014.

Editor's Note — Sections relating to funding that were repealed by Chapter 547, Laws of 1991, include the following:

§§ 37-101-287 and 37-101-289 (loans for the study of certain health care professions).
§ 37-106-13 (post-secondary education assistance fund).
§§ 37-109-1 through 37-109-27 (medical education loans and scholarships).
§§ 37-129-5 through 37-129-13 (scholarship program for the study of nursing).

Cross References — Postsecondary Education Finance Assistance Law generally, see §§ 37-106-1 et seq.

§ 37-106-53. Uniform repayment options and terms for forgivable loan programs.

(1) Forgivable loans shall be made and based upon the following options for repayment or conversion to interest-free scholarships:

(a) Payment in full of principal plus a penalty of five percent (5%) of the principal and interest on the combined principal and penalty must be made in monthly installments, the maximum number of which will be determined by the board, unless set forth in this chapter. Interest will begin to accrue at the date of separation from the approved program of study at a rate equal to the unsubsidized Federal Stafford loan rate at the time of separation. Repayment will commence one (1) month after separation from the program of study, unless the recipient is granted a grace period or deferment by the board. The availability and length of a grace period will be determined by the board. The availability and length of any deferments will be determined by the board.

(b) In lieu of payment in full of both principal and interest, a loan recipient may elect to repay by entry into service employment. Service requirements for each forgivable loan program will be determined by the board, unless set forth in this chapter. Unless excepted by this chapter, repayment under this option shall convert loan to scholarship, and discharge the same, on the basis of one (1) year's full-time service for one (1) year's loan amount or its equivalent if the recipient attended part-time, or the appropriate proportion of the total outstanding balance of principal and interest, all as shall be established by rule and regulation of the board. The period of service shall in no event be less than one (1) year. If at any time prior to the repayment in full of the total obligation the recipient abandons or abrogates repayment by this option, the provisions of subsection (1)(c) of this section shall apply.

(c) In the event of abandonment or abrogation of the option for repayment as provided for in subsection (1)(b) of this section, the remaining balance of unpaid or undischarged principal plus a penalty of five percent (5%) of the unpaid or undischarged principal and interest on the combined principal and penalty shall become due and payable over the remaining period of time as if the option provided for in subsection (1)(a) of this section had been elected upon separation and the conclusion of any applicable grace and deferment periods.

(2) Any person failing to complete a program of study which will enable that person to enter service employment, or failing to obtain any required licensure or additional credentials necessary for that person to enter service employment shall become liable to the board for the sum of all forgivable loan awards made to that person plus a penalty of five percent (5%) of the loan awards and interest on the combined amount accruing at the current unsubsidized Federal Stafford loan rate at the time the person abrogates his participation in the program.

(3) If a claim for payment under this subsection is placed in the hands of a collection agency or an attorney for collection, the obligor shall be liable for an additional amount equal to a reasonable collection commission or attorney's fee as well as any court costs.

(4) The obligations made by the recipient of a forgivable loan award shall not be voidable by reason of the age of the student at the time of receiving the scholarship.

SOURCES: Laws, 2014, ch. 538, § 22, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected errors in internal references by substituting "subsection (1)(c) of this section" for "Section 37-106-53(1)(c)" near the end of (1)(b), "subsection (1)(b) of this section" for "Section 37-106-53(1)(b)" near the beginning of (1)(c) and "subsection (1)(a) of this section" for "Section 37-106-53(1)(a)" near the end of (1)(c). The Joint Committee ratified the corrections at its July 24, 2014, meeting.

§ 37-106-55. Critical Needs Teacher Forgivable Loan Program [Repealed effective July 1, 2020].

(1) There is established the "Critical Needs Teacher Forgivable Loan Program," the purpose of which is to attract qualified teachers to those geographical areas of the state and those subject areas of the curriculum where there exists a critical shortage of teachers by awarding forgivable loans to persons declaring an intention to serve in the teaching field who actually render service to the state while possessing an appropriate teaching license.

(2) Individuals shall not be eligible to enroll in the Critical Needs Teacher Scholarship Program after the 2014-2015 academic year, and in subsequent years individuals are encouraged to apply to the Teaching Fellows Program established in Section 37-106-77. Any individual who is enrolled in or accepted for enrollment at a teacher education program approved by the State Board of Education or other program at a baccalaureate degree-granting institution of higher learning in the State of Mississippi and has a passing score on the Praxis I Basic Skills Test who expresses in writing an intention to teach in a geographical area of the state or a subject area of the public school curriculum in which there exists a critical shortage of teachers, as designated by the State Board of Education, shall be eligible for a forgivable loan to be applied toward the costs of the individual's college education. The annual amount of the award shall be equal to the total cost for tuition, room and meals, books, materials and fees at the college or university in which the student is enrolled, not to exceed an amount equal to the highest total cost of tuition, room and meals, books, materials and fees assessed by a state institution of higher learning during that school year. Awards made to nonresidents of the state shall not include any amount assessed by the college or university for out-of-state tuition.

(3) Awards granted under the Critical Needs Teacher Forgivable Loan Program shall be available to both full-time and part-time students. Students enrolling on a full-time basis may receive a maximum of two (2) annual awards. The maximum number of awards that may be made to students attending school on a part-time basis, and the maximum time period for part-time students to complete the number of academic hours necessary to obtain a baccalaureate degree in education, shall be established by rules and regulations promulgated by the board. Critical Needs Teacher Forgivable Loans shall not be based upon an applicant's financial need.

(4) Awards granted under the Critical Needs Teacher Forgivable Loan Program shall be made available to nontraditional licensed teachers showing a documented need for student loan repayment and employed in those school

districts designated by the State Board of Education as a geographical area of the state or in a subject area of the curriculum in which there is a critical shortage of teachers. The maximum annual amount of this repayment should not exceed Three Thousand Dollars ($3,000.00) and the maximum time period for repayment shall be no more than four (4) years.

(5) Except in those cases where employment positions may not be available upon completion of licensure requirements, at the beginning of the first school year in which a recipient of a Critical Needs Teacher Forgivable Loan is eligible for employment as a licensed teacher or a nontraditional teacher intern pursuant to Section 37-3-2(6)(b), that person shall begin to render service as a licensed teacher or nontraditional teacher intern in a public school district in a geographical area of the state or a subject area of the curriculum where there is a critical shortage of teachers, as approved by the State Board of Education.

(6) Failure to repay any loan and interest that becomes due shall be cause for the revocation of a person's teaching license by the State Board of Education.

(7) Repayment and conversion terms shall be the same as those outlined in Section 37-106-53.

(8) The board shall promulgate rules and regulations necessary for the proper administration of the Critical Needs Teacher Forgivable Loan Program.

(9) The State Board of Education shall compile and report, in consultation with the board, an annual report with findings and recommendations to the legislative committees on education by December 1, 2003, and annually thereafter, on the following:

(a) The number of participants in the Critical Needs Teacher Forgivable Loan Program, by institution and by freshman, sophomore, junior and senior level;

(b) The number of nontraditional teacher license program participants;

(c) The number of individuals who completed the Critical Needs Teacher Forgivable Loan Program and the school district in which they are employed;

(d) The number of individuals who are in default of their obligation under the Critical Needs Teacher Forgivable Loan Program and the status of their obligation;

(e) The number of participants in the program who have successfully completed the Praxis examination in their junior year; and

(f) The number of noneducation majors participating in the program.

(10) Where local school districts exhibit financial need, the State Department of Education may, subject to the availability of funds specifically appropriated therefor by the Legislature, provide financial assistance for the recruitment of certified teachers in an amount not to exceed Seventy-five Thousand Dollars ($75,000.00) annually.

This section shall stand repealed July 1, 2020.

SOURCES: Laws, 2014, ch. 538, § 23, eff from and after July 1, 2014.

Editor's Note — Similar provisions relating to the critical needs teacher scholarship program were formerly found in § 37-159-3 [Laws, 1998, ch. 544, § 2; Laws, 2002, ch. 587, § 3; Laws, 2003, ch. 337, § 1; Laws, 2004, ch. 409, § 3; Laws, 2011, ch. 442, § 18; Laws, 2012, ch. 315, § 1, eff from and after passage (approved Apr. 3, 2012)], which was repealed by § 39 of Chapter 538, Laws of 2014, effective from and after July 1, 2014.

Cross References — Failure to repay critical needs teacher forgivable loan and interest as cause for revocation of teaching license, see § 37-106-55.

Professional teacher recruiters, see § 37-149-7.

§ 37-106-57. William F. Winter Teacher Forgivable Loan Program.

(1) It is the intention of the Legislature to attract and retain qualified teachers by awarding incentive loans to persons declaring an intention to serve in the teaching field and who actually render service to the state while possessing an appropriate teaching license.

(2) There is established the "William F. Winter Teacher Forgivable Loan Program."

(3) Subject to the availability of funds, students who are enrolled in any baccalaureate degree-granting institution of higher learning in the State of Mississippi that is regionally accredited and approved by the board and who have expressed in writing a present intention to teach in Mississippi shall be eligible for student loans to be applied to the costs of their college education. Persons who have been admitted to a teacher education program or a nontraditional teacher internship licensure program authorized under Section 37-3-2(6) (b), as approved by the State Board of Education, shall also qualify for loans at approved institutions. The board shall provide that teacher education majors and noneducation majors shall have equal access to forgivable loans under authority of this section.

(4) A junior establishing initial eligibility shall be eligible for a maximum of two (2) annual loans and a senior shall be eligible for one (1) annual loan.

(5) The maximum annual loan shall be set by the board at an amount not to exceed the cost of attendance at any baccalaureate degree-granting institution of higher learning in the State of Mississippi. However, it is the intent of the Legislature that the maximum annual loan amounts under the William F. Winter Teacher Forgivable Loan Program shall not be of such amounts that would compete with the Critical Needs Teacher Forgivable Loan Program.

(6) The loans of persons who actually render service as licensed teachers or nontraditional teacher interns authorized under Section 37-3-2(6) (b) in a public school, including a charter school, in Mississippi for a major portion of the school day for at least seventy-eight (78) school days shall be converted to interest-free scholarships. Repayment and conversion terms shall be the same as those outlined in Section 37-106-53.

(7) Failure to repay any loan and interest that becomes due shall be cause for the revocation of a person's teaching license by the State Department of Education.

(8) The board shall promulgate regulations necessary for the proper administration of this section.

SOURCES: Laws, 2014, ch. 538, § 24, eff from and after July 1, 2014.

Editor's Note — Similar provisions relating to the William F. Winter Teacher Scholar Loan Program were formerly found in § 37-143-11 [Laws, 1991, ch. 547, § 6; Laws, 1993, ch. 593, § 1; Laws, 1998, ch. 544, § 3; Laws, 2002, ch. 587, § 2; Laws, 2004, ch. 409, § 2; Laws, 2013, ch. 497, § 85, eff from and after July 1, 2013] which was repealed by § 37 of Chapter 538, Laws of 2014, effective from and after July 1, 2014.

§ 37-106-59. Forgivable loan program for baccalaureate and graduate studies in nursing.

(1) There is created a forgivable loan program for baccalaureate study in nursing. Forgivable loans are established and shall be allocated to students who: (a) are accepted and enrolled in an accredited Mississippi School of Nursing approved by the board; (b) complete an application by the deadline established by the board; and (c) enter into contract with the board, obligating themselves to pursue to completion the course of study agreed upon, and following the completion of such work, to spend a period of time in teaching nursing at any accredited school of nursing in Mississippi, approved by the board, or in performing other work in the interest of public health in the state, to be approved by the board. Repayment and conversion terms shall be the same as outlined in Section 37-106-53.

(2) There is created a program for advanced study in nursing. Forgivable loans are established and shall be allocated to students who: (a) have graduated from an accredited high school and from a school of nursing and are licensed registered nurses in Mississippi; and (b) are approved by the board; and (c) enter into contract with the board, obligating themselves to pursue to completion the course of study agreed upon, and immediately following the completion of such work, to spend a period of time, equal to the period of study provided under the scholarship, in teaching nursing at any accredited school of nursing in Mississippi, approved by the board, or in performing other work in the interest of public health in the state, to be approved by the board. Repayment and conversion terms shall be the same as outlined in Section 37-106-53.

(3) In addition to a forgivable loan, any such student may be allocated a loan not to exceed One Thousand Dollars ($1,000.00) per month for each month of full-time study in a graduate nursing program. The repayment of the principal and interest of such loans shall be eligible for deferment during attendance as a full-time student in an approved program for advanced study in an accredited school of nursing. For any student who receives this loan, the student's contract with the board shall obligate the student, immediately following completion of the course of study, to repay the loan by teaching nursing for not less than two (2) years at any accredited school of nursing in Mississippi approved by the board. Repayment and conversion terms shall be the same as those outlined in Section 37-106-53, except that teaching service shall convert the loan to an interest-free scholarship, and discharge the same, on the basis of two (2) years of service for one (1) year's loan amount, or the

appropriate proportion of the total outstanding balance of principal and interest, all as established by rule and regulation of the board.

(4) The board shall establish the rules and regulations as it deems necessary and proper to carry out the purposes and intent of this section.

SOURCES: Laws, 2014, ch. 538, § 25, eff from and after July 1, 2014.

Editor's Note — Similar provisions relating to scholarships for advanced study in nursing were formerly found in § 37-143-9 [Laws, 1991, ch. 547, § 5; Laws, 1993, ch. 593, § 2, eff from and after July 1, 1993], which was repealed by § 37 of Chapter 538, Laws of 2014, effective from and after July 1, 2014.

§ 37-106-61. State medical forgivable loan program.

(1) There is hereby created the state medical forgivable loan program. The purpose of such program shall be to enable eligible applicants who desire to become physicians to obtain a medical education in the University of Mississippi School of Medicine, which will qualify them to become licensed, practicing physicians and surgeons.

(2) The board shall establish, by rule and regulation, the maximum annual award which may be made under this program at an amount not to exceed the cost of tuition and other expenses, and shall establish the maximum number of awards which may be made not to exceed the length of time required to complete the degree requirements and internship or residency.

(3) Repayment and conversion terms shall be the same as those outlined in Section 37-106-53 and shall include the following:

(a) Payment in full of principal and interest must be made in sixty (60) or less equal monthly installments;

(b) In lieu of payment in full of both principal and interest, a loan recipient may elect to repay by entry into public health work at a state health institution as defined in Section 37-106-67(2), or community health centers that are grantees under Section 330 of the United States Public Health Service Act;

(c) In lieu of payment in full of both principal and interest, a loan recipient may elect to repay by entry into the practice of medicine in a primary health care field in an area outside of a metropolitan statistical area, as defined and established by the United States Census Bureau, and within a region ranking between 1 and 54, inclusively, on the Relative Needs Index of Five Factors for Primary Care Physicians, as annually determined by the State Board of Health, for a period of five (5) years.

(4) The board shall establish the rules and regulations as it deems necessary and proper to carry out the purposes and intent of this section.

SOURCES: Laws, 2014, ch. 538, § 26, eff from and after July 1, 2014.

Editor's Note — Similar provisions relating to the medical loan or scholarship program were formerly found in § 37-143-5 [Laws, 1991, ch. 547, § 3, eff from and after July 1, 1991], which was repealed by § 37 of Chapter 538, Laws of 2014, effective from and after July 1, 2014.

Federal Aspects — United States Public Health Service Act, see 42 USCS §§ 201 et seq.

§ 37-106-63. State dental forgivable loan program.

(1) There is hereby created the state dental forgivable loan program. The purpose of the program shall be to enable eligible applicants who desire to become dentists to obtain a standard four-year education in the study of dentistry in the University of Mississippi School of Dentistry, which will qualify them to become licensed, practicing dentists.

(2) The board shall establish, by rule and regulation, the maximum annual award which may be made under this program at an amount not to exceed the cost of tuition and other expenses, and shall establish the maximum number of awards, which may be made not to exceed the length of time required to complete the degree requirements.

(3) Repayment and conversion terms shall be the same as those outlined in Section 37-106-53 and shall include the following:

(a) Payment in full of principal and interest must be made in sixty (60) or less equal monthly installments;

(b) In lieu of payment in full of both principal and interest, a loan recipient may elect to repay by entry into public health work at a state health institution as defined in Section 37-106-67(2), or community health centers that are grantees under Section 330 of the United States Public Health Service Act;

(c) In lieu of payment in full of both principal and interest, a loan recipient may elect to repay by entry into the practice of dentistry in an area outside of a metropolitan statistical area, as defined and established by the United States Census Bureau, and within a region ranking between 1 and 54, inclusively, on the Relative Needs Index of Four Factors for Dentists, as annually determined by the State Board of Health, for a period of five (5) years.

(4) The board shall establish the rules and regulations as it deems necessary and proper to carry out the purposes and intent of this section.

SOURCES: Laws, 2014, ch. 538, § 27, eff from and after July 1, 2014.

Editor's Note — Similar provisions relating to the dental loan or scholarship program were formerly found in § 37-143-7 [Laws, 1991, ch. 547, § 4, eff from and after July 1, 1991], which was repealed by § 37 of Chapter 538, Laws of 2014, effective from and after July 1, 2014.

Federal Aspects — United States Public Health Service Act, see 42 USCS §§ 201 et seq.

§ 37-106-65. Out-of-state graduate and professional school forgivable loan program.

The board, under such rules and regulations as it shall determine may provide forgivable loans for instruction in graduate and professional schools for qualified students, who are residents of Mississippi, in institutions outside the state boundaries, when such instruction is not available for them in the regularly supported Mississippi institutions of higher learning. The board shall, by its rules and regulations, determine the qualifications of such students as may be aided by this section, and the decision by the board as to the qualifications of such students shall be final. Subject to the availability of funding, the board shall provide forgivable loans for such graduate and professional instruction at a cost to students, not exceeding the cost, as estimated by the board, of such instruction, if it were available at a state supported institution of higher learning in the State of Mississippi. Repayment and conversion terms shall be the same as those outlined in Section 37-106-53.

SOURCES: Laws, 2014, ch. 538, § 28, eff from and after July 1, 2014.

Editor's Note — Similar provisions relating to out-of-state graduate and professional studies instruction were formerly found in § 37-101-221 [Codes, 1942, § 6726.5; Laws, 1948, ch. 282, § 1; Laws, 1962, ch. 372], which was repealed by § 41 of Chapter 538, Laws of 2014, effective from and after July 1, 2014.

§ 37-106-67. Health care professions' forgivable loan program.

(1) There is established a health care professions' forgivable loan program. It is the intent of the Legislature that persons declaring an intention to work at certain state health institutions as nurses, nurse practitioners, speech pathologists, psychologists, occupational therapists and physical therapists shall be eligible for a loan for the purpose of acquiring an education in such professions. The board shall enter into contracts with applicants, providing that such loans may be discharged by working as a health care professional in a state health institution, as defined in this section. Repayment and conversion terms shall be the same as those outlined in Section 37-106-53.

(2) "State health institution" shall mean any of the following: any facility or program operated by the Department of Mental Health; the State Board of Health; mental health/intellectual disability facilities under the administration of a regional commission as established under Section 41-19-31 which are certified by the Department of Mental Health; and health care facilities under the Department of Corrections.

(3) The board shall establish rules and regulations as it deems necessary and proper to carry out the purposes and intent of this section.

SOURCES: Laws, 2014, ch. 538, § 29, eff from and after July 1, 2014.

Editor's Note — Similar provisions relating to the health care professions' loan program were formerly found in § 37-143-13 [Laws, 1991, ch. 547, § 7; Laws, 1992, ch. 365, § 1; Laws, 2001, ch. 388, § 1; Laws, 2010, ch. 476, § 16, eff from and after passage (approved Apr. 1, 2010)], which was repealed by § 37 of Chapter 538, Laws of 2014, effective from and after July 1, 2014.

§ 37-106-69. Family protection specialist social worker forgivable loan program.

(1) There is established a forgivable loan program to encourage family protection workers employed by the Department of Human Services to obtain the college education necessary to become licensed as a social worker, master social worker or certified social worker and become a family protection specialist for the department.

(2) Any person who is employed as a family protection worker for the Department of Human Services shall be eligible for a forgivable loan from the board which shall be used to pay the costs of the person's education at a state institution of higher learning in Mississippi to obtain a college degree that is necessary to become licensed as a social worker, master social worker or certified social worker and become a family protection specialist for the department. The annual amount of a forgivable loan award under the program shall be equal to the total cost of tuition and fees at the college or university in which the student is enrolled, not to exceed an amount equal to the highest total cost of tuition and fees assessed by a state institution of higher learning during that school year.

(3) Forgivable loans made under the program shall be available to both full-time and part-time students. Students enrolling on a full-time basis may receive a maximum of two (2) annual awards. The maximum number of forgivable loans that may be made to students attending school on a part-time basis, and the maximum time period for part-time students to complete the number of academic hours necessary to obtain the necessary degree, shall be established by rules and regulations of the board. Forgivable loans made under the program shall not be based upon an applicant's financial need. A student must maintain a "C" average or higher in his or her college coursework in order to continue receiving the forgivable loan.

(4) Repayment and conversion terms shall be the same as those outlined in Section 37-106-53, except for the following:

(a) After a person who received a forgivable loan under the program has obtained a college degree that is necessary to become licensed as a social worker, master social worker or certified social worker and has received such a license from the Board of Examiners for Social Workers and Marriage and Family Therapists, the person shall render service as a family protection specialist for the Department of Human Services for a period of not less than three (3) years from the date that the person became a family protection specialist;

(b) Any person who fails to complete his or her service obligation as a family protection specialist for the Department of Human Services for not less than three (3) years, as required under subsection (4)(a) of this section, shall become liable immediately to the board for the sum of all forgivable loan awards made to that person, plus interest accruing at the current Stafford Loan rate at the time the person discontinues his or her service.

(5) It is the intent of the Legislature that the pursuit of necessary college education by family protection workers through the forgivable loan program

shall not interfere with the duties of the family protection workers with the Department of Human Services. The department shall promulgate regulations regarding family protection workers who participate in the forgivable loan program to ensure that such participation does not interfere with their duties with the department.

(6) The board shall promulgate rules and regulations necessary for the proper administration of the forgivable loan program established under this section. The board shall be the administering agency of the program.

(7) The total amount of state funds that may be expended for this program shall not exceed Three Hundred Twenty Thousand Dollars ($320,000.00) in any fiscal year.

SOURCES: Laws, 2014, ch. 538, § 30, eff from and after July 1, 2014.

Editor's Note — Similar provisions relating to the family protection specialist social worker scholarship program were formerly found in § 37-143-14 [Laws, 2007, ch. 544, § 1, eff from and after July 1, 2007], which was repealed by § 37 of Chapter 538, Laws of 2014, effective from and after July 1, 2014.

Cross References — Standards for employment as family protection worker, see § 43-1-55.

Qualifications of family protection specialists, see § 43-27-107.

§ 37-106-71. Mississippi Dyslexia Education Forgivable Loan Program.

(1) There is established the Mississippi Dyslexia Education Forgivable Loan Program for the purpose of identifying and recruiting qualified university and college students from the state for schooling in education with a focus on dyslexia therapy.

(2) The receipt of a forgivable loan under the program shall be solely limited to those students who are enrolled in or who have been accepted for enrollment into a master's degree program of study for dyslexia therapy at any public or private institution of higher learning within the State of Mississippi at the time an application for a forgivable loan is filed with the board.

(3) The annual amount of the forgivable loan award shall be equal to the total cost for tuition, materials and fees at the college or university in which the student is enrolled. Awards made to nonresidents of the state shall not include any amount assessed by the college or university for out-of-state tuition.

(4) Upon completion of the master's program and licensure requirements, a forgivable loan recipient who has not been previously licensed by the State Department of Education shall render service as licensed teacher of dyslexia therapy in a public school district in the state.

(5) Repayment and conversion terms shall be the same as those outlined in Section 37-106-53.

(6) The board shall prepare and submit a report to the Legislature by January 1, 2015, outlining in detail the number of participants who have received forgivable loans under the program, the record of service provided by

those recipients as they transition out of the degree program into the public school districts of this state, and the projection for expanding the program to include more participants annually as determined by the need for such qualified professionals in the public school setting. Additionally, the report shall include a summary of allocations and expenditures for the administration of the program and the total amount of funds issued to recipients of forgivable loan from the inception of the program until such time as the report has been prepared and submitted to the Legislature.

(7) The Mississippi Dyslexia Education Forgivable Loan Program shall be administered in the same manner as the Critical Needs Teacher Forgivable Loan Program established under Section 37-106-55 and shall be incorporated into the Critical Needs Teacher Forgivable Loan Program for all purposes.

(8) Funding for the establishment and continued operation of the Mississippi Dyslexia Education Forgivable Loan Program shall be administered by the board through a special fund established within the Critical Needs Teacher Forgivable Loan Program. The board may accept and receive monetary gifts and donations from any source, public or private, which such funds shall be deposited in the special fund for the benefit of the Mississippi Dyslexia Education Forgivable Loan Program with the Critical Needs Teacher Forgivable Loan Program.

(9) No more than twenty (20) students per cohort shall be selected annually to be admitted into the program for receipt of forgivable loans beginning with the 2013-2014 academic year. However, forgivable loans awarded under the program shall be provided only to students who have been accepted into a Dyslexia Therapy Master's Degree Cohort Program approved by the State Department of Education that provides instructional training as required under Chapter 173, Title 37, Mississippi Code of 1972, for dyslexia therapy in preparation of those cohort students for AA licensure by the department.

SOURCES: Laws, 2014, ch. 538, § 31, eff from and after July 1, 2014.

Editor's Note — Similar provisions relating to the Mississippi Dyslexia Education Scholarship Program were formerly found in §§ 37-159-51 [Laws, 2012, ch. 562, § 1, eff from and after July 1, 2012] and 37-159-53 [Laws, 2012, ch. 562, § 2; Laws, 2013, ch. 429, § 1, eff from and after July 1, 2013], which were repealed by § 40 of Chapter 538, Laws of 2014, effective from and after July 1, 2014.

§ 37-106-73. Speech-Language Pathologists Forgivable Loan Program.

(1) There is established a Speech-Language Pathologists Forgivable Loan Program. It is the intent of the Legislature that persons declaring an intention to work in an accredited public school (K-12), including a charter school, located in the State of Mississippi as a speech-language pathologist shall be eligible for a loan for the purpose of acquiring a master's level education in such profession. The board shall enter into contracts with applicants, providing that such loans may be discharged by working as a master's level

speech-language pathologist in an accredited public school (K-12), including a charter school, located in the State of Mississippi.

Repayment and conversion terms shall be the same as those outlined in Section 37-106-53.

(2) The board shall establish rules and regulations as it deems necessary and proper to carry out the purposes and intent of this section.

The provisions of this section shall be subject to specific appropriation therefor by the Legislature.

SOURCES: Laws, 2014, ch. 538, § 32, eff from and after July 1, 2014.

Editor's Note — Similar provisions relating to the Speech-Language Pathologists Loan Forgiveness Program were formerly found in § 37-143-12 [Laws, 2012, ch. 491, § 1; Laws, 2013, ch. 497, § 86, eff from and after July 1, 2013], which was repealed by § 37 of Chapter 538, Laws of 2014, effective from and after July 1, 2014.

§ 37-106-75. Higher Education Legislative Plan Grant Program.

[From and after July 1, 2014, and until June 30, 2015, this section shall read as follows:]

(1) The Legislature hereby establishes the Higher Education Legislative Plan Grant Program.

(2) For purposes of this section:

(a) "Institution of higher education" shall mean any state institution of higher learning or public community or junior college, or any regionally accredited, state-approved, nonprofit two-year or four-year college or university located in the State of Mississippi approved by the board.

(b) "Tuition" shall mean the semester or trimester or term charges and all required fees imposed by an institution of higher education as a condition of enrollment by all students. However, for a two-year nonpublic institution of higher education defined in paragraph (a), the tuition payments shall not exceed the average charges and fees required by all of the two-year public institutions of higher education defined in paragraph (a), and for a four-year nonpublic institution of higher education defined in paragraph (a), the tuition payments shall not exceed the average charges and fees required by all of the four-year public institutions of higher education defined in paragraph (a).

(3) Subject to the availability of funds, the state may pay the tuition of students who enroll at any state institution of higher education to pursue an academic undergraduate degree who apply for the assistance under the program and who meet all of the following qualifications:

(a) Resident of the State of Mississippi. Resident status for the purpose of receiving assistance under this chapter shall be determined in the same manner as resident status for tuition purposes in Sections 37-103-1 through 37-103-29, with the exception of Section 37-103-17;

(b) Graduate from high school within the two (2) years preceding the application with a minimum cumulative grade point average of 2.5 calculated on a 4.0 scale;

(c) Successfully complete, as certified by the high school counselor or other school official, seventeen and one-half (17-½) units of high school course work which includes the College Preparatory Curriculum (CPC) approved by the Board of Trustees of State Institutions of Higher Learning and required for admission into a state university, plus one (1) unit of art which may include one (1) unit or two (2) one-half (½) units from the approved Mississippi Department of Education Arts-Visual and Performing series, and one (1) additional advanced elective unit, which may include Foreign Language II;

(d) Have a composite score on the American College Test of at least twenty (20) on the 1989 version or an equivalent concordant value on an enhanced version of such test;

(e) Have no criminal record, except for misdemeanor traffic violations; and

(f) Be in financial need.

(4) Subject to the availability of funds, the state may pay the tuition of students who enroll at any state institution of higher education to pursue an academic undergraduate degree or associate degree who apply for assistance under the program and who meet the qualifications in paragraphs (a), (e) and (f) of subsection (3) but who fail to meet one (1) of the particular requirements established by paragraph (b), (c) or (d) of subsection (3) by an amount of ten percent (10%) or less.

(5) To maintain continued state payment of tuition, once enrolled in an institution of higher education, a student shall meet all of the following requirements:

(a) Make steady academic progress toward a degree, earning not less than the minimum number of hours of credit required for full-time standing in each academic period requiring such enrollment;

(b) Maintain continuous enrollment for not less than two (2) semesters or three (3) quarters in each successive academic year, unless granted an exception for cause by the board;

(c) Have a cumulative grade point average of at least 2.5 calculated on a 4.0 scale at the end of the first academic year and thereafter maintain such a cumulative grade point average as evaluated at the end of each academic year;

(d) Have no criminal record, except for misdemeanor traffic violations; and

(e) Be in financial need.

(6) The provisions of this section shall be administered by the board. The board may promulgate rules for all matters necessary for the implementation of this section. By rule, the board shall provide for:

(a) A mechanism for informing all students of the availability of the assistance provided under this section early enough in their schooling that a salutary motivational effect is possible;

(b) Applications, forms, financial audit procedures, eligibility and other program audit procedures and other matters related to efficient operation;

(c) A procedure for waiver through the 1996-1997 academic year of the program eligibility requirement for successful completion of a specified core curriculum upon proper documentation by the applicant that failure to comply with the requirement is due solely to the fact that the required course or courses were not available to the applicant at the school attended.

(7) An applicant shall be found to be in financial need if:

(a) The family has one (1) child under the age of twenty-one (21), and the annual adjusted gross income of the family is less than Thirty-six Thousand Five Hundred Dollars ($36,500.00); or

(b) The family has an annual adjusted gross income of less than Thirty-six Thousand Five Hundred Dollars ($36,500.00) plus Five Thousand Dollars ($5,000.00) for each additional child under the age of twenty-one (21).

The annual adjusted gross income of the family shall be verified by completion of the Free Application for Federal Student Aid (FAFSA) and the completion of the verification process if the applicant is selected for it.

As used in this subsection, the term "family" for an unemancipated applicant means the applicant, the applicant's parents and other children under age twenty-one (21) of the applicant's parents. The term "family" for an emancipated applicant means the applicant, an applicant's spouse, and any children under age twenty-one (21) of the applicant and spouse.

(8) No student shall receive a grant under this section in an amount greater than the tuition charged by the school. The student must apply for a federal grant prior to receiving state funds.

[From and after July 1, 2015, and until June 30, 2016, this section shall read as follows:]

(1) The Legislature hereby establishes the Higher Education Legislative Plan Grant Program.

(2) For purposes of this section:

(a) "Institution of higher education" shall mean any state institution of higher learning or public community or junior college, or any regionally accredited, state-approved, nonprofit two-year or four-year college or university located in the State of Mississippi approved by the board.

(b) "Tuition" shall mean the semester or trimester or term charges and all required fees imposed by an institution of higher education as a condition of enrollment by all students. However, for a two-year nonpublic institution of higher education defined in paragraph (a), the tuition payments shall not exceed the average charges and fees required by all of the two-year public institutions of higher education defined in paragraph (a), and for a four-year nonpublic institution of higher education defined in paragraph (a), the tuition payments shall not exceed the average charges and fees required by all of the four-year public institutions of higher education defined in paragraph (a).

(3) Subject to the availability of funds, the state may pay the tuition of students who enroll at any state institution of higher education to pursue an academic undergraduate degree who apply for the assistance under the program and who meet all of the following qualifications:

(a) Resident of the State of Mississippi. Resident status for the purpose of receiving assistance under this chapter shall be determined in the same manner as resident status for tuition purposes in Sections 37-103-1 through 37-103-29, with the exception of Section 37-103-17;

(b) Graduate from high school within the two (2) years preceding the application with a minimum cumulative grade point average of 2.5 calculated on a 4.0 scale;

(c) Successfully complete, as certified by the high school counselor or other school official, seventeen and one-half (17-½) units of high school course work which includes the College Preparatory Curriculum (CPC) approved by the Board of Trustees of State Institutions of Higher Learning and required for admission into a state university, plus one (1) unit of art which may include one (1) unit or two (2) one-half (½) units from the approved Mississippi Department of Education Arts-Visual and Performing series, and one (1) additional advanced elective unit, which may include Foreign Language II;

(d) Have a composite score on the American College Test of at least twenty (20) on the 1989 version or an equivalent concordant value on an enhanced version of such test;

(e) Have no criminal record, except for misdemeanor traffic violations; and

(f) Be in financial need.

(4) Subject to the availability of funds, the state may pay the tuition of students who enroll at any state institution of higher education to pursue an academic undergraduate degree or associate degree who apply for assistance under the program and who meet the qualifications in paragraphs (a), (e) and (f) of subsection (3) but who fail to meet one (1) of the particular requirements established by paragraph (b), (c) or (d) of subsection (3) by an amount of ten percent (10%) or less.

(5) To maintain continued state payment of tuition, once enrolled in an institution of higher education, a student shall meet all of the following requirements:

(a) Make steady academic progress toward a degree, earning not less than the minimum number of hours of credit required for full-time standing in each academic period requiring such enrollment;

(b) Maintain continuous enrollment for not less than two (2) semesters or three (3) quarters in each successive academic year, unless granted an exception for cause by the board;

(c) Have a cumulative grade point average of at least 2.5 calculated on a 4.0 scale at the end of the first academic year and thereafter maintain such a cumulative grade point average as evaluated at the end of each academic year;

(d) Have no criminal record, except for misdemeanor traffic violations; and

(e) Be in financial need.

(6) The provisions of this section shall be administered by the board. The board may promulgate rules for all matters necessary for the implementation of this section. By rule, the board shall provide for:

(a) A mechanism for informing all students of the availability of the assistance provided under this section early enough in their schooling that a salutary motivational effect is possible;

(b) Applications, forms, financial audit procedures, eligibility and other program audit procedures and other matters related to efficient operation;

(c) A procedure for waiver through the 1996-1997 academic year of the program eligibility requirement for successful completion of a specified core curriculum upon proper documentation by the applicant that failure to comply with the requirement is due solely to the fact that the required course or courses were not available to the applicant at the school attended.

(7) An applicant shall be found to be in financial need if:

(a) The family has one (1) child under the age of twenty-one (21), and the annual adjusted gross income of the family is less than Thirty-nine Thousand Five Hundred Dollars ($39,500.00); or

(b) The family has an annual adjusted gross income of less than Thirty-nine Thousand Five Hundred Dollars ($39,500.00) plus Five Thousand Dollars ($5,000.00) for each additional child under the age of twenty-one (21).

The annual adjusted gross income of the family shall be verified by completion of the Free Application for Federal Student Aid (FAFSA) and the completion of the verification process if the applicant is selected for it.

As used in this subsection, the term "family" for an unemancipated applicant means the applicant, the applicant's parents and other children under age twenty-one (21) of the applicant's parents. The term "family" for an emancipated applicant means the applicant, an applicant's spouse, and any children under age twenty-one (21) of the applicant and spouse.

(8) No student shall receive a grant under this section in an amount greater than the tuition charged by the school. The student must apply for a federal grant prior to receiving state funds.

[From and after July 1, 2016, this section shall read as follows:]

(1) The Legislature hereby establishes the Higher Education Legislative Plan Grant Program.

(2) For purposes of this section:

(a) "Institution of higher education" shall mean any state institution of higher learning or public community or junior college, or any regionally accredited, state-approved, nonprofit two-year or four-year college or university located in the State of Mississippi approved by the board.

(b) "Tuition" shall mean the semester or trimester or term charges and all required fees imposed by an institution of higher education as a condition of enrollment by all students. However, for a two-year nonpublic institution of higher education defined in paragraph (a), the tuition payments shall not exceed the average charges and fees required by all of the two-year public institutions of higher education defined in paragraph (a), and for a four-year nonpublic institution of higher education defined in paragraph (a), the tuition payments shall not exceed the average charges and fees required by all of the four-year public institutions of higher education defined in paragraph (a).

(3) Subject to the availability of funds, the state may pay the tuition of students who enroll at any state institution of higher education to pursue an academic undergraduate degree who apply for the assistance under the program and who meet all of the following qualifications:

(a) Resident of the State of Mississippi. Resident status for the purpose of receiving assistance under this chapter shall be determined in the same manner as resident status for tuition purposes in Sections 37-103-1 through 37-103-29, with the exception of Section 37-103-17;

(b) Graduate from high school within the two (2) years preceding the application with a minimum cumulative grade point average of 2.5 calculated on a 4.0 scale;

(c) Successfully complete, as certified by the high school counselor or other school official, seventeen and one-half (17-½) units of high school course work which includes the College Preparatory Curriculum (CPC) approved by the Board of Trustees of State Institutions of Higher Learning and required for admission into a state university, plus one (1) unit of art which may include one (1) unit or two (2) one-half (½) units from the approved Mississippi Department of Education Arts-Visual and Performing series, and one (1) additional advanced elective unit, which may include Foreign Language II;

(d) Have a composite score on the American College Test of at least twenty (20) on the 1989 version or an equivalent concordant value on an enhanced version of such test;

(e) Have no criminal record, except for misdemeanor traffic violations; and

(f) Be in financial need.

(4) Subject to the availability of funds, the state may pay the tuition of students who enroll at any state institution of higher education to pursue an academic undergraduate degree or associate degree who apply for assistance under the program and who meet the qualifications in paragraphs (a), (e) and (f) of subsection (3) but who fail to meet one (1) of the particular requirements established by paragraph (b), (c) or (d) of subsection (3) by an amount of ten percent (10%) or less.

(5) To maintain continued state payment of tuition, once enrolled in an institution of higher education, a student shall meet all of the following requirements:

(a) Make steady academic progress toward a degree, earning not less than the minimum number of hours of credit required for full-time standing in each academic period requiring such enrollment;

(b) Maintain continuous enrollment for not less than two (2) semesters or three (3) quarters in each successive academic year, unless granted an exception for cause by the board;

(c) Have a cumulative grade point average of at least 2.5 calculated on a 4.0 scale at the end of the first academic year and thereafter maintain such a cumulative grade point average as evaluated at the end of each academic year;

(d) Have no criminal record, except for misdemeanor traffic violations; and

(e) Be in financial need.

(6) The provisions of this section shall be administered by the board. The board may promulgate rules for all matters necessary for the implementation of this section. By rule, the board shall provide for:

(a) A mechanism for informing all students of the availability of the assistance provided under this section early enough in their schooling that a salutary motivational effect is possible;

(b) Applications, forms, financial audit procedures, eligibility and other program audit procedures and other matters related to efficient operation;

(c) A procedure for waiver through the 1996-1997 academic year of the program eligibility requirement for successful completion of a specified core curriculum upon proper documentation by the applicant that failure to comply with the requirement is due solely to the fact that the required course or courses were not available to the applicant at the school attended.

(7) An applicant shall be found to be in financial need if:

(a) The family has one (1) child under the age of twenty-one (21), and the annual adjusted gross income of the family is less than Forty-two Thousand Five Hundred Dollars ($42,500.00); or

(b) The family has an annual adjusted gross income of less than Forty-two Thousand Five Hundred Dollars ($42,500.00) plus Five Thousand Dollars ($5,000.00) for each additional child under the age of twenty-one (21).

The annual adjusted gross income of the family shall be verified by completion of the Free Application for Federal Student Aid (FAFSA) and the completion of the verification process if the applicant is selected for it.

As used in this subsection, the term "family" for an unemancipated applicant means the applicant, the applicant's parents and other children under age twenty-one (21) of the applicant's parents. The term "family" for an emancipated applicant means the applicant, an applicant's spouse, and any children under age twenty-one (21) of the applicant and spouse.

(8) No student shall receive a grant under this section in an amount greater than the tuition charged by the school. The student must apply for a federal grant prior to receiving state funds.

SOURCES: Laws, 2014, ch. 538, § 33, eff from and after July 1, 2014.

Editor's Note — At the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, a typographical error in the bracketed effective date information preceding the first version of the section was corrected by inserting "after" preceding "July."

§ 37-106-77. Teaching Fellows Program.

(1) There is established the Teaching Fellows Program to attract qualified teachers by awarding forgivable loans to persons declaring an intention to serve in the teaching field who actually render service in the State of Mississippi while possessing an appropriate teaching license.

(2) Beginning with the 2015-2016 academic year, the Teaching Fellows Program shall be used to provide a four-year forgivable loan of Six Thousand Five Hundred Dollars ($6,500.00) per year to Mississippi high school seniors interested in preparing to teach in the public schools of the state. The awarding of forgivable loans under the Teaching Fellows Program shall be administered by the Postsecondary Education Financial Assistance Board. The Postsecondary Education Financial Assistance Board shall adopt stringent standards, including a minimum grade point average and scholastic aptitude test scores, for awarding these forgivable loans to ensure that only the highest aptitude high school seniors receive them.

(3) The State Board of Education shall administer the program in cooperation with the schools of education of the universities and colleges selected by the board. Teaching Fellows should be exposed to a range of extracurricular activities while in college. These activities should be geared to instilling a strong motivation not only to remain in teaching but to provide leadership for tomorrow's schools.

(4) The State Board of Education shall form regional review committees to assist it in identifying the highest aptitude high school seniors for the program. The State Board of Education and the review committees shall make an effort to identify and encourage minority students and students who may not otherwise consider a career in teaching to enter the program.

(5) Repayment and conversion terms shall be the same as those outlined in Section 37-106-53 except that the Postsecondary Education Financial Assistance Board shall forgive the loan in the following circumstances:

(a) Within seven (7) years after graduation, the recipient teaches for four (4) years at a Mississippi public school or at a school operated by the United States government in Mississippi;

(b) Within seven (7) years after graduation, the recipient teaches for three (3) consecutive years, unless the recipient takes an approved leave of absence, at a Mississippi public school in a school district that at the time the recipient accepts reemployment with the district which is under conservatorship or is a low-performing school system identified in accordance with Section 37-17-6 or is on probation status as defined by the State Board of Education; or

(c) The board finds that it is impossible for the recipient to teach for four (4) years, within seven (7) years after graduation, at a Mississippi public school or at a school operated by the United States government in Mississippi, because of the death or permanent disability of the recipient.

(6) The State Board of Education and the Postsecondary Education Financial Assistance Board shall jointly promulgate rules and regulations for the proper administration of the Teaching Fellows Program established under this section. The State Board of Education shall be the administering agency of the program.

SOURCES: Laws, 2014, ch. 538, § 44, eff from and after July 1, 2014.

Cross References — Post-Secondary Education Financial Assistance Board, see § 37-106-9.

§ 37-106-79. Teacher Education Alternate Route Certification Scholars Program.

(1) There is created the Teacher Education Alternate Route Certification Scholars Program to be administered by the Postsecondary Education Financial Assistance Board. Beginning with the 2015-2016 academic year, the program shall provide an annual forgivable loan not to exceed Five Thousand Dollars ($5,000.00) for one (1) of the following alternate route programs:

(a) Mississippi Alternate Path to Quality Teachers Training Institute;
(b) Teach Mississippi Institute;
(c) Career Tech Education (CTE); or
(d) Masters of Arts in Teaching (MAT).

(2) Qualifying alternate route certification teacher education scholars must:

(a) Hold a bachelor's degree from a regionally or nationally accredited institution of higher learning;

(b) Have a minimum GPA of 3.0 based on a 4.0 scale on the last sixty (60) credit hours of baccalaureate work, as reported by the graduating institution; and

(c) Meet the Mississippi minimum score requirements for national exams as required for educator certification as determined by the State Department of Education.

(3) A teacher education alternate route certified scholar who completes the program shall render one (1) year's service as a teacher in a Mississippi public school for each year that the scholar received an award under the program. Repayment and conversion terms shall be the same as outlined in Section 37-106-53.

(4) The Postsecondary Education Financial Assistance Board shall promulgate such rules as are necessary to administer the Teacher Education

Alternate Route Certification Scholars Program and establish necessary eligibility criteria not specifically set forth in this section.

(5) Awards granted under the Teacher Education Alternate Route Certification Scholars Program shall be made available to nontraditional licensed teachers showing a documented need for student loan repayment and employed in those school districts designated by the State Board of Education as a geographical area of the state or in a subject area of the curriculum in which there is a critical shortage of teachers. Repayment and conversion terms shall be the same as outlined in Section 37-106-53 except that the maximum annual amount of this repayment should not exceed Three Thousand Dollars ($3,000.00) and the maximum time period for repayment shall be no more than four (4) years.

(6) The provisions of this section shall be subject to appropriation by the Legislature.

SOURCES: Laws, 2014, ch. 538, § 45, eff from and after July 1, 2014.

Editor's Note — Post-Secondary Education Financial Assistance Board, see § 37-106-9.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in subsection (6) by substituting "provisions" for "provision." The Joint Committee ratified the correction at its July 24, 2014, meeting.

CHAPTER 107

Scholarships for Children of Deceased or Disabled Law Enforcement Officers or Firemen

Sec.
37-107-1 through 37-107-9. Repealed

§§ 37-107-1 through 37-107-9. Repealed.

Repealed by Laws of 2014, ch. 538, § 34, effective from and after July 1, 2014.

§ 37-107-1. [Codes, 1942, § 6726.9-01; Laws, 1971, ch. 373, § 1; Laws, 1985, ch. 517, § 1; Laws, 1989, ch. 339, § 1; Laws, 1990, ch. 382, § 1, eff from and after passage (approved March 13, 1990).]

§ 37-107-3. [Codes, 1942, § 6726.9-01; Laws, 1971, ch. 373, § 1; Laws, 1972, ch. 450, § 1; Laws, 1974, ch. 569, § 4; Laws, 1985, ch. 517, § 2; Laws, 1988, ch. 470; Laws, 1990, ch. 382, § 2; Laws, 1992, ch. 377, § 1; Laws, 2004, ch. 410, § 1, eff from and after passage (approved Apr. 26, 2004.)]

§ 37-107-5. [Codes, 1942, § 6726.9-02; Laws, 1971, ch. 373, § 2; Laws, 1985, ch. 517, § 3, eff from and after July 1, 1985.]

§ 37-107-7. [Codes, 1942, § 6726.9-03; Laws, 1971, ch. 373, § 3, eff from and after passage (approved March 16, 1971).]

§ 37-107-9. [Codes, 1942, § 6726.9-04; Laws, 1971, ch. 373, § 4, eff from and after passage (approved March 16, 1971).].

Editor's Note — Former § 37-107-1 related to eligibility requirements for scholarships for children of deceased or disabled law enforcement officers or firefighters. For present similar provisions, see § 37-106-39.

Former § 37-107-3 provided definitions for terms used in former Chapter 107.

Former § 37-107-5 related to determining permanent and total disability of law enforcement officer or firefighter. For present similar provisions, see § 37-106-39.

Former § 37-107-7 related to the scholarship application process. For present similar provisions, see § 37-106-39.

Former § 37-107-9 related to the administration of the scholarship program.

CHAPTER 108

Scholarships for Children of Prisoners of War or Men Missing in Action

SEC.
37-108-1 through 37-108-5. Repealed

§§ 37-108-1 through 37-108-5. Repealed.

Repealed by Laws of 2014, ch. 538, § 35, effective from and after July 1, 2014.

§ 37-108-1. [Codes, 1942, § 6724.1-11; Laws, 1972, ch. 300, § 1; Laws, 1973, ch. 459, § 1; Laws, 1980, ch. 503, eff from and after passage (approved May 16, 1980).]

§ 37-108-3. [Codes, 1942, § 6724.1-12; Laws, 1972, ch. 300, § 2, eff from and after passage (approved February 4, 1972).]

§ 37-108-5. [Codes, 1942, § 6724.1-13; Laws, 1972, ch. 300, § 3, eff from and after passage (approved February 4, 1972).]

Editor's Note — Former § 37-108-1 related to eligibility requirements for scholarships for children of prisoners of war or men missing in action. For present similar provisions, see § 37-106-41.

Former § 37-108-3 related to the scholarship application process. For present similar provisions, see § 37-106-41.

Former § 37-108-5 related to the administration of the scholarship program.

CHAPTER 109

Medical Education Loans and Scholarships [Repealed]

§§ 37-109-1 through 37-109-27. Repealed.

Repealed by Laws, 1991, ch. 547, § 12, eff from and after July 1, 1991.

§ 37-109-1. [Codes, 1942, § 9054-20; Laws, 1966, ch. 423, § 1, eff from and after June 30, 1966.]

§ 37-109-2. [Laws, 1975, ch. 480, § 1, eff from and after passage (approved April 7, 1975)]

§ 37-109-3. [Codes, 1942, § 9054-26; Laws, 1960, ch. 358, § 6, eff from and after passage (approved May 11, 1960)]

§ 37-109-5. [Codes, 1942, § 9054-27; Laws, 1960, ch. 358, § 7, eff from and after passage (approved May 11, 1960)]

§ 37-109-6 [Laws, 1975, ch. 480, § 4, eff from and after passage (approved April 7, 1975)]

§ 37-109-7. [Codes, 1942, § 9054.28; Laws, 1960, ch. 358, § 8; Laws, 1975, ch. 480, § 2, eff from and after passage (approved April 7, 1975)]

§ 37-109-8. [Laws, 1975, ch. 480, § 5, eff from and after passage (approved April 7, 1975)]

§ 37-109-9. [Codes, 1942, §§ 9054-28, 9054-33; Laws, 1960, ch. 358, §§ 8, 13; Laws, 1966, ch. 423, § 5, eff from and after June 30, 1966]

§ 37-109-11. [Codes, 1942, § 9054-29; Laws, 1960, ch. 358, § 9; Laws, 1962, ch. 415, § 1; Laws, 1966, ch. 423, § 2; Laws, 1975, ch. 480, § 3; Laws, 1976, ch. 366; Laws, 1979, ch. 306, eff from and after passage (approved February 19, 1979)]

§ 37-109-13. [Codes, 1942, § 9054-31; Laws, 1960, ch. 358, § 11; Laws, 1966, ch. 423, § 4, eff from and after June 30, 1966]

§ 37-109-15. [Codes, 1942, § 9054-32; Laws, 1960, ch. 358, § 12, eff from and after passage (approved May 11, 1960)]

§ 37-109-17. [Codes, 1942, § 9054-30; Laws, 1960, ch. 358, § 10; Laws, 1962, ch. 415, § 2; Laws, 1966, ch. 423, § 3, eff from and after June 30, 1966]

§ 37-109-19. [Codes, 1942, § 9054-34; Laws, 1960, ch. 358, § 14, eff from and after passage (approved May 11, 1960)]

§ 37-109-21. [Codes, 1942, § 9054-35; Laws, 1960, ch. 358, § 15; Laws, 1966, ch. 423, § 6, eff from and after June 30, 1966]

§ 37-109-23. [Codes, 1942, § 9054-36; Laws, 1960, ch. 358, § 16, eff from and after passage (approved May 11, 1960)]

§ 37-109-25. [Codes, 1942, §§ 9054-29, 9054-37; Laws, 1960, ch. 358, §§ 9, 17; Laws, 1962, ch. 415, § 1; Laws, 1966, ch. 423, § 2; Laws, 1970, ch. 528, § 1, eff from and after July 1, 1970]

§ 37-109-27. [Codes, 1942, § 9054-38; Laws, 1960, ch. 358, § 18, eff from and after passage (approved May 11, 1960)]

Editor's Note — Laws of 1991, ch. 547, § 18, effective July 1, 1991, provides as follows:

"The Board of Trustees of State Institutions of Higher Learning is hereby authorized to honor all contracts and commitments for the provision of loans or scholarships existing under prior programs repealed by this act."

Former § 37-109-1 provided for transfer of functions from state medical education board to state institutions of higher learning. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-2 provided definitions for this chapter. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-3 provided the powers and duties of the board. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-5 provided eligibility requirements. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-6 provided for the selection of eligible applicants. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-7 provided for loans and scholarships. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-8 provided for provision of loans based on greatest need. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-9 provided provisions relating to contracts. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-11 provided conditions as to repayment. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-13 provided requirements for practice in state-supported institutions. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-15 provided for effect of military service. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-17 provided for service of process and summons on recipient removing from the state as well as for venue and continuances. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-19 provided for contracts for admission of students to medical schools. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-21 provided for the creation of a revolving fund. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-23 provided for repayment of loans under previous laws. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-25 provided for reports and accounting. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

Former § 37-109-27 provided a declaration of purpose for this chapter. For current provisions governing medical loans or scholarship programs, see § 37-143-5.

CHAPTER 110

Mississippi Public Management Graduate Intern Program

SEC.
37-110-1 through 37-110-5. Repealed
37-110-7. Duties and responsibilities of participating universities.
37-110-9 and 37-110-11. Repealed

§§ 37-110-1 through 37-110-5. Repealed.

Repealed by Laws of 2014, ch. 538, § 36, effective July 1, 2014.

§ 37-110-1. [Laws, 1980, ch. 506, § 1, eff from and after July 1, 1980; Laws, 1993, ch. 551, § 1, eff from and after July 1, 1993.]

§ 37-110-3. [Laws, 1980, ch. 506, § 2, eff from and after July 1, 1980.]

§ 37-110-5. [Laws, 1980, ch. 506, § 3, eff from and after July 1, 1980; Laws, 1993, ch. 551, § 2, eff from and after July 1, 1993.]

Editor's Note — Former § 37-110-1 established the Mississippi Public Management Graduate Intern Program. For present similar provisions, see § 37-106-43.

Former § 37-110-3 created the Mississippi Intern Public Management Education Council. For present similar provisions, see § 37-106-43.

Former § 37-110-5 created the position of program coordinator to be the chief administrative officer of the Mississippi Public Management Graduate Intern Program and prescribed the program coordinator's powers and duties. For present similar provisions, see § 37-106-43.

§ 37-110-7. Duties and responsibilities of participating universities.

It shall be the duty and responsibility of universities participating in the intern program to nominate qualified graduate students to said program and to keep the program coordinator fully apprised of the academic development of the intern student, including any change in the student's educational status.

SOURCES: Laws, 1980, ch. 506, § 4, eff from and after July 1, 1980.

Editor's Note — The intent of Chapter 538 appears to have been to repeal Chapter 110, Title 37 (Sections 37-110-1 through 37-110-11) in its entirety, but Section 37-110-7 was omitted from the list of sections repealed by Section 36 of Chapter 538, which provides:

"SECTION 36. Sections 37-110-1, 37-110-3, 37-110-5, 37-110-9 and 37-110-11, Mississippi Code of 1972, which provided for the Mississippi Public Management Graduate Intern Program, are repealed."

§§ 37-110-9 and 37-110-11. Repealed.

Repealed by Laws of 2014, ch. 538, § 36, effective July 1, 2014.

§ 37-110-9. [Laws, 1980, ch. 506, § 5, eff from and after July 1, 1980; Laws, 1993, ch. 551, § 3, eff from and after July 1, 1993.]

§ 37-110-11. [Laws, 1980, ch. 506, § 6, eff from and after July 1, 1980.].

Editor's Note — Former § 37-110-9 related to the employment of intern students in state or local agencies participating in the Mississippi Public Management Graduate Intern Program. For present similar provisions, see § 37-106-43.

Former § 37-110-11 related to assessment of intern program by participating students. For present similar provisions, see § 37-106-43.

CHAPTER 111

Fraternities, Sororities and Other Societies

Sec.
37-111-1. Students may organize.
37-111-3. Consent of faculty necessary.
37-111-5. Repealed.
37-111-7. Meetings.
37-111-9. Lease.
37-111-11. Members must obey all rules of the institution.
37-111-13. State Board of Institutions of Higher Learning directed to study fire safety of private fraternity and sorority houses located on state property.

§ 37-111-1. Students may organize.

For the purpose of promoting higher standards of scholarship, a greater degree of culture, closer social fellowship and a stronger college spirit among the students of the state universities and colleges, any group of students in such institutions shall be permitted to organize themselves into such societies as academic, professional, honorary, Masonic, or so-called Greek letter fraternities or sororities, or similar organizations whether of a local or connectional character as provided in this chapter.

SOURCES: Codes, 1930, § 7309; 1942, § 6792; Laws, 1926, ch. 312.

Cross References — Prohibition against fraternities in high schools, see §§ 37-11-37 et seq.

Prohibition against fraternities in junior college, see §§ 37-29-235 et seq.

JUDICIAL DECISIONS

1. In general.

A fraternity house which was an incorporated association existing solely by virtue of §§ 37-111-1 to 37-111-11 was a suable entity; although §§ 37-111-1 to 37-111-11 do not provide that such an association may sue or be sued in its chosen name, such can be implied from the statutory recognition of such an association as a legal entity. Beta Beta Chapter of Beta Theta Pi Fraternity v. May, 611 So. 2d 889 (Miss. 1992).

RESEARCH REFERENCES

ALR. Tort liability of college, university, fraternity, or sorority for injury or death of member or prospective member by hazing or initiation activity. 68 A.L.R.4th 228.

Am Jur. 15A Am. Jur. 2d, Colleges and Universities § 28.

6 Am. Jur. Proof of Facts 3d, Civil Liability of Member or Officer of Unincorporated Association, §§ 1 et seq.

CJS. 14 C.J.S., Colleges and Universities § 27.

§ 37-111-3. Consent of faculty necessary.

No society of the character designated in Section 37-111-1 shall be organized without first having made written application to the faculty of the institution concerned, which application shall be signed by each of the proposed membership. A majority vote of the faculty present at a regular meeting shall suffice to approve or reject such application. The board of trustees of state institutions of higher learning may determine who constitutes the members of the faculty having jurisdiction of student activities.

SOURCES: Codes, 1930, § 7310; 1942, § 6793; Laws, 1926, ch. 312.

RESEARCH REFERENCES

ALR. Tort liability of college, university, fraternity, or sorority for injury or death of member or prospective member by hazing or initiation activity. 68 A.L.R.4th 228.

§ 37-111-5. Repealed.

Repealed by Laws, 2011, ch. 375, § 1, effective from and after July 1, 2011.
§ 37-115-5. [Codes, 1930, § 7311; 1942, § 6794; Laws, 1926, ch. 312.]

Editor's Note — Former § 37-111-5 provided student eligibility requirements for membership in fraternities, sororities or other similar university or college societies.

§ 37-111-7. Meetings.

Organizations of the character designated in Section 37-111-1 shall be permitted to hold their regular meetings for academic, social or business purposes in such places as the authorities may agree upon. Such organizations shall not be permitted to purchase, lease, or as an organization live within a domicile especially set apart for their purpose at any time, except under such regulations as shall be prescribed by the board of trustees of state institutions of higher learning.

SOURCES: Codes, 1930, § 7312; 1942, § 6795; Laws, 1926, ch. 312.

§ 37-111-9. Lease.

The board of trustees of state institutions of higher learning is hereby authorized and empowered, in its discretion, to lease to social fraternities, sororities, or other social organizations, upon such conditions as it may prescribe, for a term not exceeding ninety-nine years, any land at any state-supported institution of higher learning for the purpose of erecting fraternity houses, sorority houses, or other facilities for recreation thereon.

SOURCES: Codes, 1942, § 6796.5; Laws, 1948, ch. 280.

RESEARCH REFERENCES

Am Jur. 4 Am. Jur. Legal Forms 2d, Colleges and Universities § 60:136 (lease to fraternity).

§ 37-111-11. Members must obey all rules of the institution.

The members of organizations of the character designated in Section 37-111-1, shall be amenable to the same rules and regulations as any and all other students in the institution. In the event that the members of such an organization become guilty of continued violation of the rules and of infractions of discipline the board of trustees of state institutions of higher learning shall have the authority to dissolve such society and prohibit further meetings or its continuation as an organization. A failure to comply with the requirements of the trustees shall be a cause for suspension or expulsion from the institution as the faculty of the same may elect.

SOURCES: Codes, 1930, § 7313; 1942, § 6796; Laws, 1926, ch. 312.

Cross References — Hazing prohibited, see § 97-3-105.

RESEARCH REFERENCES

ALR. Tort liability of college, university, fraternity, or sorority for injury or death of member or prospective member by hazing or initiation activity. 68 A.L.R.4th 228.

§ 37-111-13. State Board of Institutions of Higher Learning directed to study fire safety of private fraternity and sorority houses located on state property.

The State Board of Institutions of Higher Learning shall study the fire safety of private fraternity and sorority houses located on state property. Such study shall include the feasibility of fire sprinkler systems and the evaluation of fire safety procedures. The board shall report its written findings and recommendations to the Chairmen of the Senate and House Insurance Committees on or before January 1, 2006.

SOURCES: Laws, 2005, ch. 527, § 2, eff from and after passage (approved Apr. 20, 2005.)

CHAPTER 113

Mississippi State University of Agriculture and Applied Science

In General 37-113-1
College of Veterinary Medicine 37-113-51
State Certification for Therapeutic Riding Instructors 37-113-61

IN GENERAL

Sec.
37-113-1. Name.
37-113-3. Organization of the university.
37-113-5. Appropriation for the support of the university.
37-113-7. Acquisition or sale of land.
37-113-9. Apportionment of students.
37-113-11. Making and announcement of apportionment of students.
37-113-13. Certificates of selection.
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37-113-17. Agricultural and forestry experimental station.
37-113-19. Agricultural extension services.
37-113-20. Issuance of wireless communication device to faculty or extension service agent; statement of need and purpose of use.
37-113-21. Branch agricultural experimental stations.
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37-113-23. Pontotoc Ridge-Flatwoods Soil Experiment Station.
37-113-25. Retirement system for employees of the agricultural and forestry experimental station and extension service.
37-113-27. Funding of agricultural research program at Delta Branch Experiment Station.
37-113-28. Leasing of hunting rights on certain land of Delta Branch Experiment Station prohibited; public permitted to hunt on such land.
37-113-29. Camp for 4-H Club members in Panola County.
37-113-31. Camp for 4-H Club members in Madison County.
37-113-33. Foundation herds of beef cattle, sheep and hogs.
37-113-35. Survey of farm lands operated by state institutions; land use plan.
37-113-37. Inventory of livestock owned by state institutions; livestock program.
37-113-39. Regulation of transportation of passengers for hire on university's campus and grounds.
37-113-41. J. C. Hardy Memorial Fund.
37-113-43. Contributions by certain counties towards construction, erection and equipping of university facilities.
37-113-45. Issuance and sale of bonds; election; terms; tax levy.
37-113-47. Utilization of proceeds of contributions.
37-113-48. "Old Extension Service Building" designated "Lloyd-Ricks-Watson Building."
37-113-49. Contribution does not give county right in educational facilities nor impose maintenance obligation.
37-113-50. Mississippi Department of Agriculture and Commerce Bureau of Plant Industry Building designated "Robert Horne McCarty Building".

§ 37-113-1. Name.

The name of the state institution of higher learning designated heretofore as Mississippi A & M College, and subsequently as Mississippi State College, is hereby changed to Mississippi State University of Agriculture and Applied Science, and wherever the term Mississippi A & M College or Mississippi State College appears in the laws of the State of Mississippi, the same shall be construed to refer to the Mississippi State University of Agriculture and Applied Science.

SOURCES: Codes, 1942, § 6689; Laws, 1932, ch. 155; Laws, 1958, ch. 317.

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Contributions by certain counties towards construction and equipping of facilities for University of Mississippi, see §§ 37-115-69 through 37-115-75.

Participation by Mississippi State University Cooperative Extension Service in the correctional industries work program, see §§ 47-5-501 et seq.

§ 37-113-3. Organization of the university.

The state institution of higher learning, as incorporated by an act of the legislature, approved February 28, 1878, by the name of the "Agricultural and Mechanical College of Mississippi," and established in pursuance of that act, shall continue to exist as a body-politic and corporate, by the name of the "Mississippi State University of Agriculture and Applied Science," with all its property and the franchises, rights, powers, and privileges heretofore conferred on it by law, or properly incident to such a body and necessary to accomplish the purpose of its creation; said university may receive and hold all real and personal property conveyed to it for such purpose.

SOURCES: Codes, 1880, § 767; 1892, § 11; 1906, § 11; Hemingway's 1917, § 3386; 1930, § 7183; 1942, § 6690.

Cross References — Donation of land by United States for the support of agricultural and mechanical colleges, see Miss. Const. Art. 8, § 213.

Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Inclusion of state-supported universities in small business consortium, see § 57-10-157.

Water resources research institute, see § 57-55-7.

Mississippi Energy Research Center, see § 57-55-15.

JUDICIAL DECISIONS

1. In general.

Trial court properly granted a university's motion to dismiss plaintiff's personal injury complaint where the university was definitively identified as an institution of the State of Mississippi; therefore, service of process was dictated by Miss. R. Civ. P. 4(d)(5), and plaintiff should have served the Attorney General of the State of Mississippi rather than the university president. Jones v. Miss. State Univ., 948 So. 2d 509 (Miss. Ct. App. 2007).

Though § 5, Chapter XIX of Laws of Mississippi of 1878 provided that the Board of Trustees could sue and be sued, that language was not carried over into the present statutes and neither this nor any other statute concerning the university could be construed as waiving the university's Eleventh Amendment immunity. Jagnandan v. Giles, 538 F.2d 1166 (5th Cir. 1976), cert. denied, 432 U.S. 910, 97 S. Ct. 2959, 53 L. Ed. 2d 1083 (1977).

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 9 et seq.

CJS. 14 C.J.S., Colleges and Universities §§ 3 et seq.

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J. 263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-113-5. Appropriation for the support of the university.

The interest arising from the proceeds of the fund known as the "Agricultural Land Scrip Fund" is appropriated and devoted, to the extent of one-half of it, to the Mississippi State University of Agriculture and Applied Science, and may be drawn from the treasury, upon warrant of the auditor, to be issued upon the requisitions of the treasurer, from time to time, as such interest may accrue and be wanted for the use of the university.

SOURCES: Codes, 1880, § 775; 1892, § 19; 1906, § 19; Hemingway's 1917, § 3387; 1930, § 7184; 1942, § 6691.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

§ 37-113-7. Acquisition or sale of land.

(1) The board of trustees of state institutions of higher learning is hereby authorized, in its discretion, to acquire by purchase, gift, or otherwise, any real property required by and for the use of Mississippi State University of Agriculture and Applied Science, and said university is authorized to hold, use and operate such real property in conducting its authorized and necessary program of work. This section is designed to make it possible for said university and its subdivisions to acquire, hold and operate real property needed in its program of operations without the benefit of state funds specifically appropriated for the purchase of such properties. Such properties shall be acquired or purchased on the recommendation of the Director of the Mississippi Agricultural and Forestry Experimental Station made to the

president of said university and approved by the board of trustees of state institutions of higher learning.

(2) The board of trustees of state institutions of higher learning is hereby authorized, in its discretion, to sell any such real property purchased or otherwise acquired under the authority of subsection (1) for the use of Mississippi State University of Agriculture and Applied Science or its subdivisions when such property is not needed in the university's programs of operations. Such properties shall be sold on the recommendation of the Director of the Mississippi Agricultural and Forestry Experimental Station made to the president of the university and approved by the board of trustees of state institutions of higher learning. The proceeds from the sale of such properties may be used to purchase other real properties for the use of the university under the provisions of subsection (1), or may be retained by the university for its operations. Consideration for the sale of real property hereunder shall not be less than the fair market price thereof as determined by a professional property appraiser selected and approved by the state building commission. Said appraisal shall be filed with the state building commission as least thirty (30) days prior to the proposed sale of said property. Appraisal fees shall be shared equally by the university and the purchaser.

(3) The board of trustees of state institutions of higher learning is hereby authorized and empowered to sell the following described property owned by Mississippi State University of Agriculture and Applied Science in Oktibbeha County, Mississippi, to-wit: Commence at the Northeast corner of the Southeast Quarter of Section 15, Township 19 North, Range 15 East, Oktibbeha County, Mississippi and use as the point of beginning. Thence run West along the North boundary of the South Half of Section 15 a distance of 3,997 feet to the East right-of-way of Macon-Aberdeen Road; thence run South along said right-of-way a distance of 20 feet; thence run East a distance of 800 feet; thence run South 78 degrees 41' East a distance of 102 feet; thence run East a distance of 410 feet; thence run South a distance of 1,107 feet; thence run East a distance of 2,687 feet to the East boundary of Section 15; thence run North along said East boundary of Section 15 a distance of 1,147 feet to the point of beginning. Being 71.56 acres located in the East Three Quarter of the South Half of Section 15, Township 19 North, Range 15 East, Oktibbeha County, Mississippi.

The proceeds from the sale of said property shall be used by the board of trustees of state institutions of higher learning to purchase other real property adjacent or in close proximity to the Mississippi State University of Agriculture and Applied Science, or its subdivisions, suitable for use in the university's programs of operation. Consideration for the sale and purchase of said property shall be for the fair market price thereof as determined by a professional property appraiser selected and approved by the state building commission. Said appraisals shall be filed with the state building commission at least thirty (30) days prior to the proposed sale or purchase of said property. Appraisal fees shall be shared equally by the university and the purchaser in the case of the sale herein authorized, and by the university and the seller(s) in the case of the purchase herein authorized.

(4) The board of trustees of state institutions of higher learning is hereby authorized and empowered to sell the following described property owned by Mississippi State University of Agriculture and Applied Science in George County, Mississippi, to-wit: The South West Quarter of the North West Quarter of Section Twenty, in Township One South of Range Six West, of the St. Stephens Meridian, Mississippi, containing Forty and Thirty One Hundredths of an acre.

The proceeds from the sale of said property shall be used by the board of trustees of state institutions of higher learning to purchase other real property adjacent or in close proximity to the Mississippi State University of Agriculture and Applied Science, or its subdivisions, suitable for use in the university's programs of operation. Consideration for the sale and purchase of said property shall be for the fair market price thereof as determined by a professional property appraiser selected and approved by the state building commission. Said appraisals shall be filed with the state building commission at least thirty (30) days prior to the proposed sale or purchase of said property. Appraisal fees shall be shared equally by the university and the purchaser in the case of the sale herein authorized, and by the university and the seller(s) in the case of the purchase herein authorized.

(5) The board of trustees of state institutions of higher learning is hereby authorized and empowered to sell the following described property owned by Mississippi State University of Agriculture and Applied Science in Lauderdale County, Mississippi, to-wit: The Northeast Quarter of the Northeast Quarter of Section 2, in Township 6, Range 16 East, plus applicable easements and mineral rights thereto.

The proceeds from the sale of said property shall be used by the board of trustees of state institutions of higher learning to purchase other real property adjacent or in close proximity to the Mississippi State University of Agriculture and Applied Science, or its subdivisions, suitable for use in the university's programs of operation. Consideration for the sale and purchase of said property shall be for the fair market price thereof as determined by a professional property appraiser selected and approved by the state building commission. Said appraisals shall be filed with the state building commission at least thirty (30) days prior to the proposed sale or purchase of said property. Appraisal fees shall be shared equally by the university and the purchaser in the case of the sale herein authorized, and by the university and the seller(s) in the case of the purchase herein authorized.

(6) When any property is sold by the board of trustees of state institutions of higher learning pursuant to this section, the board shall retain for the State of Mississippi any mineral rights which the board or the university has in such land.

SOURCES: Codes, 1942, § 6691.5; Laws, 1950, ch. 380, §§ 1, 2; Laws, 1982, ch. 465, eff from and after passage (approved April 20, 1982).

Editor's Note — Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services. Section 7-1-451, however, provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Laws of 2014, ch. 304, § 1 provides:

"SECTION 1. (1) Mississippi State University of Agriculture and Applied Sciences is authorized to enter into a parking garage license agreement with Cooley Center Hotel, LLC and its successors and assigns ("Hotel") for a term of fifty-five (55) years regarding Hotel's use of a part of the parking garage to be constructed on property that is located in the City of Starkville, Mississippi and is more particularly described as follows:

"A parcel of land containing 1.67 acres, more or less, and being a part of Block 31 of the Starkville Land Company subdivision as platted and recorded in the Oktibbeha County Chancery Clerk's office in Plat Book 1 at Page 15 (Slide 8) and being more particularly described as follows:

[For a complete description of the property, see Section 1 of Chapter 304, Laws of 2014]

"(2) The parking garage license agreement may include an option to renew the agreement for one (1) term of fifty five (55) years.

"(3) The parking garage license agreement and any amendments to the agreement shall be subject to the approval of the Board of Trustees of State Institutions of Higher Learning. The approved parking garage license agreement and any amendments to the agreement shall not be cancelled by successor boards based on the binding successor doctrine."

Laws of 2014, ch. 304, § 2 provides:

"SECTION 2. (1) Mississippi State University of Agriculture and Applied Sciences is authorized to enter into a ground lease with Cooley Center, LLC and its successors and assigns ("Cooley") for a term of fifty-five (55) years to lease the property on which the "Cooley Building" is located for the purposes of Cooley's renovation of the Cooley Building. The Cooley Building is located at 600 Russell Street in the City of Starkville, Mississippi on a parcel more particularly described as follows:

[For a complete description of the property, see Section 2 of Chapter 304, Laws of 2014]

"(2) The ground lease may include an option to renew the lease for no more than two (2) lease terms of five (5) years each.

"(3) The ground lease and any amendments to the lease shall be subject to the approval of the Board of Trustees of State Institutions of Higher Learning. The approved ground lease and any amendments to the lease shall not be cancelled by successor boards based on the binding successor doctrine."

Laws of 2014, ch. 304, § 3 provides:

"SECTION 3. (1) Mississippi State University of Agriculture and Applied Sciences is authorized to enter a sublease agreement to sublease at least thirty six thousand (36,000) rentable square feet of office space from Cooley Center, LLC and its successors and assigns for a term of fifteen (15) years. The office space is located within the property known as the "Cooley Building" and is more particularly described in Section 2(1) of this act.

"(2) The sublease agreement may include an option to renew the sublease for no more than four (4) terms of five (5) years each and a final term of six (6) years.

"(3) The sublease agreement and any amendments to the agreement shall be subject to the approval of the Board of Trustees of State Institutions of Higher Learning. The approved sublease agreement and any amendments to the agreement shall not be cancelled by successor boards based on the binding successor doctrine."

Laws of 2014, ch. 304, § 4 provides:

"SECTION 4. (1) Mississippi State University of Agriculture and Applied Sciences is authorized to enter into a ground lease with the Mayor and Board of Aldermen of the City of Starkville, Mississippi, for a term of ten (10) years to lease the real property on which a parking garage will be constructed. The real property is located in the City of Starkville, Mississippi, and is more particularly described in Section 1(1) of this act.

"(2) The ground lease and any amendments to the lease shall be subject to the approval of the Board of Trustees of State Institutions of Higher Learning. The approved ground lease and any amendments to the lease shall not be cancelled by successor boards based on the binding successor doctrine."

Laws of 2014, ch. 304, § 5 provides:

"SECTION 5. (1) Mississippi State University of Agriculture and Applied Sciences ("MSU") is authorized to enter into a parking garage use and operation agreement with the Mayor and Board of Aldermen of the City of Starkville, Mississippi, regarding MSU's use of the parking garage to be constructed on the real property that is located in the City of Starkville, Mississippi, and that is more particularly described in Section 1(1) of this act. The parking garage use and operation agreement shall be for a term beginning after construction of the parking garage is complete and ending when the ground lease authorized under Section (4) of this act expires.

"(2) The parking garage use and operation agreement and any amendments to the agreement shall be subject to the approval of the Board of Trustees of State Institutions of Higher Learning. The approved parking garage use and operation agreement and any amendments to the agreement shall not be cancelled by successor boards based on the binding successor doctrine."

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Agricultural and Forestry Experimental Station, see § 37-113-17.

§ 37-113-9. Apportionment of students.

The right belongs to each county to have a number of students admitted to the Mississippi State University of Agriculture and Applied Science proportionate to its number of educable males compared with the whole number in the state.

SOURCES: Codes, 1892, § 22; 1906, § 22; Hemingway's 1917, § 3390; 1930, § 7187; 1942, § 6694.

§ 37-113-11. Making and announcement of apportionment of students.

The apportionment of students to be admitted to the Mississippi State University of Agriculture and Applied Science shall be made and announced by the president of the university annually, on or before the first day of July, and communicated to the superintendent of education of the counties. The total attendance at any session shall not exceed the entire allotment to the several counties for such session.

SOURCES: Codes, 1892, § 23; 1906, § 23; Hemingway's 1917, § 3391; 1930, § 7188; 1942, § 6695.

§ 37-113-13. Certificates of selection.

The superintendent of education of each county, after due notice published, shall give certificates of selection to the number of students to which the county is entitled to have admitted to the Mississippi State University of

Agriculture and Applied Science, and this in addition to those already in the university, if any. This selection of new students shall be made by drawing, if more than the county's quota apply.

The certificate of selection shall be attested by the clerk of the board of supervisors under its seal, and shall entitle the holder to admission into the university, with all its privileges, to pursue all its industrial branches selected, and to enter the subclass or class for which he is fitted.

SOURCES: Codes, 1892, §§ 24, 25; 1906, §§ 24, 25; Hemingway's 1917, §§ 3392, 3393; 1930, §§ 7189, 7190; 1942, §§ 6696, 6697.

§ 37-113-15. Dormitory privileges.

The privilege of rooming in the dormitories belongs to the free students, and to the due quota of students from each county in preference to all others, on the basis of the present dormitory capacity in the Mississippi State University of Agricultural and Applied Science.

SOURCES: Codes, 1892, § 21; 1906, § 21; Hemingway's 1917, § 3389; 1930, § 7186; 1942, § 6693.

§ 37-113-17. Agricultural and forestry experimental station.

The money received by this state, under Act of Congress, entitled "An act to establish agricultural experimental stations, etc.," approved March 2, 1887, and the provisions of which were accepted by this state, by act approved January 31, 1888, and assigned to the Mississippi State University of Agriculture and Applied Science, shall be expended under its direction. The agricultural and forestry experimental station for this state is established at and with said university, and the board of trustees of state institutions of higher learning shall have full control thereof.

SOURCES: Codes, 1892, § 27; 1906, § 27; Hemingway's 1917, § 3395; 1930, § 7191; 1942, § 6698; Laws, 1888, p. 54; Laws, 1970, ch. 262, § 1, eff from and after passage (approved April 3, 1970).

Cross References — Authorization of branch agricultural experimental stations, see §§ 37-113-21, 37-113-23.

Retirement system for employees of experiment stations and extension service, see § 37-113-25.

Surface mining and reclamation of land, see §§ 53-7-1 et seq.

Authorization and creation of Mississippi state chemical laboratory, see §§ 57-21-1 et seq.

Duties of commissioner of agriculture and commerce, see § 69-1-13.

Board comprised of directors of Department of Economic and Community Development, Cooperative Extension Service, Small Farm Development Center and Agricultural and Forestry Experiment Station shall develop definitions, guidelines and procedures for implementing Mississippi Farm Reform Act, see § 69-2-13.

Mississippi fertilizer law, see §§ 75-47-1 et seq.

§ 37-113-19. Agricultural extension services.

The State of Mississippi by its legislature assents to and accepts the provisions and requirements of an act entitled "An act to provide for the further development of agricultural extension work between the agricultural colleges in the several states receiving the benefits of the act entitled 'An act donating public lands of the several counties and territories which may provide colleges for the benefit of agriculture and the mechanical arts,' approved July 2, 1862, and all acts supplementary thereto, and the United States Department of Agriculture," approved by the President on the 22nd day of May, 1928. The board of trustees of state institutions of higher learning, on behalf of the Mississippi State University of Agriculture and Applied Science, is authorized and empowered to receive the grants of money appropriated under said act and to organize and conduct agricultural extension work, which shall be carried on in connection with the said university in accordance with the terms and conditions expressed in the said act of congress.

SOURCES: Codes, Hemingway's 1917, § 3397; 1930, § 7192; 1942, § 6699; Laws, 1916, ch. 127; Laws, 1930, ch. 66.

Cross References — Lease of prison lands to Mississippi Agricultural Extension Service, see § 47-5-56, 47-5-58, 47-5-64, 47-5-66, and 47-5-70.

Designation of Mississippi State University of Agriculture and Applied Science as agency to administer federal aid projects, see § 69-27-101.

§ 37-113-20. Issuance of wireless communication device to faculty or extension service agent; statement of need and purpose of use.

(1) For the purposes of this section, the following terms shall have the meanings ascribed to them in this section unless the context otherwise clearly requires:

(a) "Wireless communication device" means any handheld, portable or mobile electronic device capable of transmitting or exchanging data in the form of multimedia, graphics, text, or voice that meets all the following criteria:

(i) The device has a wireless communication capability and is mobile;

(ii) The device requires an upfront or periodic charge or fee to utilize the wireless communications capability; and

(iii) The wireless communication capability that requires an upfront or periodic fee is activated.

For purposes of this section, a notebook or laptop computer is not considered a wireless communication device.

(b) "Director" means the Mississippi State University Extension Service Director, the Mississippi State University Agricultural and Forestry Experiment Station Director, the Mississippi State University Forestry and Wildlife Research Center Director or the Dean of the Mississippi State University College of Veterinary Medicine.

(2) The director or his designee may, at his discretion, assign or otherwise make available for usage one or more wireless communications devices to a faculty member or an agent of the Mississippi State University Extension Service under his direct or indirect supervision after the director, or his designee, signs a statement certifying the need or purpose for issuing the device. No faculty member or extension service agent to whom has been assigned a wireless communication device under this paragraph shall use the assigned device for personal use except in those cases where the personal use does not incur additional charges or fees as a result of the personal use. A detailed billing of wireless services for devices referred to in this paragraph shall be obtained on a periodic basis and reviewed by the director, or his designee, to audit usage and verify compliance with this section.

(3) No state-appropriated funds shall be used to pay for the acquisition or use of a wireless communication device issued under this section.

SOURCES: Laws, 2013, ch. 452, § 1, eff from and after July 1, 2013.

§ 37-113-21. Branch agricultural experimental stations.

(1) Agriculture is the primary industry of Mississippi and it is to the interest of said state agriculture that research in the fields of livestock products, pastures and forage crops, poultry, herd and flock management, horticulture, farm mechanization, soil conservation, forestry, disease and insect and parasite control, the testing of plants and livestock under different conditions, farm enterprises for different sized farms under different soil and climatic conditions and market locations, and other important phases of Mississippi's agricultural economy, be expanded in the manner provided for in this section.

(2) There is hereby authorized a branch experiment station to be known as the Brown Loam Branch Experiment Station, which is to be located on a part of that tract of land owned by the State of Mississippi and formerly operated as the Oakley Penitentiary and known as the Oakley Youth Development Center, same to be selected in accordance with Laws, 1954, Chapter 159, Section 3, and used as an agricultural experiment station. This property is to be supplied with necessary buildings, equipment, and other facilities; and title to such Oakley Penitentiary Farm, now known as the Oakley Youth Development Center, is to be transferred to the Board of Trustees of State Institutions of Higher Learning for the use of the Mississippi Agricultural and Forestry Experimental Station as the site of, and to be used for said Brown Loam Branch Experiment Station in accordance with Laws, 1954, Chapter 159, Section 3.

There is hereby authorized a branch experiment station to be known as the Coastal Plain Branch Experiment Station to be located on a suitable tract of approximately nine hundred (900) acres to be purchased in the upper coastal plain or short leaf pine area of east central Mississippi and to be supplied with necessary buildings, equipment, and other facilities.

The enlargement of the Holly Springs Branch Experiment Station, hereafter to be known as the North Mississippi Branch Experiment Station, is hereby authorized, by the purchase of approximately five hundred (500) acres of additional land adjacent to or in the vicinity of either of the two (2) farms now operated by said branch stations, and by the provision of the necessary buildings, equipment, and other facilities, and the sale as, hereinafter provided, of that farm of said branch station which is not adjacent to the additional land to be purchased.

There is hereby authorized the reactivation of the former McNeil Branch Experiment Station to be operated as a part of the South Mississippi Branch Experiment Station at Poplarville, and to be supplied with necessary buildings, equipment, and other facilities.

There is hereby authorized a branch experiment station to be known as the Black Belt Branch Experiment Station to be located on a suitable tract of approximately six hundred forty (640) acres of land to be purchased in Noxubee County, Mississippi, and to be supplied with the necessary buildings, equipment, and other facilities.

There is hereby authorized a branch experiment station to be known as the Northeast Mississippi Branch Experiment Station to be located on a suitable tract of approximately two hundred (200) acres of land to be purchased in Lee County, Mississippi. Said station shall be primarily devoted to the development of the dairy industry and shall be supplied with necessary buildings, equipment, and other facilities.

There is hereby authorized the expansion of the office and laboratory building at the Delta Branch Experiment Station at Stoneville and of the office and laboratory and dwellings for station workers at the Truck Crops Branch Experiment Station at Crystal Springs.

(3) The governing authorities of any municipality, town, or county in the state may, in their discretion, donate land, money or other property to the Board of Trustees of State Institutions of Higher Learning in furtherance of the purposes of this section.

For the purpose of securing funds to carry out this subsection, the governing authorities of such municipality, town, or county are hereby authorized and empowered, in their discretion, to issue bonds or negotiate notes for the purpose of acquiring by purchase, gift, or lease real estate for the purpose herein authorized. Such issuance of bonds or notes shall be issued in an amount not to exceed the limitation now or hereafter imposed by law on counties, municipalities and towns, and shall be issued in all respects including interest rate, maturities and other details as is now or may hereafter be provided by general law regulating the issuance of bond or notes by the governing authorities of such municipality, town, or county.

(4) Any person, firm or corporation may contribute or donate real or other property to the Board of Trustees of State Institutions of Higher Learning in furtherance of the purpose of this section.

(5) The Board of Trustees of State Institutions of Higher Learning is hereby authorized, upon recommendation of the Director of the Agricultural

and Forestry Experimental Station at the Mississippi State University of Agriculture and Applied Science, which recommendation is approved by and transmitted to said board by the president of said university, to carry out the provisions of this section with particular reference to the establishment, reactivation, expansion, and the discontinuance of branch stations as herein provided, to receive and accept title to any land or property or money herein authorized, to buy or sell and dispose of any real or personal property herein authorized, to make available for carrying into effect the provisions of this section all money received from such sale or sales, and to do any and all things necessary to effectuate the purposes of this section. One-half (½) interest in and to all oil, gas and other minerals shall be retained under any lands sold hereunder.

(6) A gift of One Hundred Thousand Dollars ($100,000.00), authorized by the general education board of the Rockefeller Foundation for the development of agricultural research, with particular reference to expanding the branch experiment stations and conditioned upon a general program of expansion substantially, as herein provided, is hereby accepted. The Director of the Agricultural and Forestry Experimental Station at the Mississippi State University of Agriculture and Applied Science is authorized and instructed to control and expend such fund in the same manner as other funds appropriated to carry out the provisions of this section.

(7) The experiment station in Clay County, Mississippi, shall not be affected by this section.

SOURCES: Codes, 1942, § 6699-01; Laws, 1946, ch. 296, §§ 1-16; Laws, 1954, ch. 159, § 1; Laws, 2010, ch. 554, § 2, eff from and after July 1, 2011.

Cross References — Establishment of agricultural and forestry experimental station, see § 37-113-17.

Retirement system for employees of experiment station and extension service, see § 37-113-25.

Leasing of hunting rights on certain land of Delta Branch Experiment Station prohibited, but public permitted to hunt on such land, see § 37-113-28.

§ 37-113-22. Research and extension activities promoting seafood industry.

The Mississippi Cooperative Extension Service and the Mississippi Agricultural and Forestry Experiment Station are authorized and encouraged to exercise any research and extension activities necessary to promote the Mississippi seafood industry.

It is not the intent of this section to mandate or authorize any new branch agricultural experiment stations for the purpose of carrying out the provisions of this section.

SOURCES: Laws, 1984, ch. 440, eff from and after passage (approved April 26, 1984).

Cross References — Establishment of branch agricultural experimental stations, see § 37-113-21.

§ 37-113-23. Pontotoc Ridge-Flatwoods Soil Experiment Station.

(1) There is hereby authorized a branch experiment station, to be known as the "Pontotoc Ridge-Flatwoods Soil Experiment Station," to be located on a suitable tract of approximately six hundred acres of land in Pontotoc County, Mississippi, the site of which is to be selected by the director of the agricultural and forestry experimental station at the Mississippi State University of Agriculture and Applied Science. Said acreage shall be divided equally, as nearly as practicable, between the Pontotoc Ridge and Flatwoods soil types, for the purpose of experimentation with said two types of soil in forestry, pasture-improvement, horticulture, soil conservation, truck crops, forage crops, poultry, disease and insect control and general farm products. The said experiment station shall be supplied with the necessary buildings, equipment, and other facilities.

(2) The purpose of this section is to provide for increased efficiency in agriculture research for the farmers in the Pontotoc Ridge and Flatwoods soil types, who have been denied this service for all these years. Said branch experiment station shall serve the following named counties, to-wit: The Pontotoc Ridge soil begins at the Tennessee line and traverses the counties of Alcorn, Prentiss, Union, Pontotoc, Chickasaw and Clay. The Flatwoods soil which joins the Pontotoc Ridge soil on the west, begins at the Tennessee line and traverses the counties of Tippah, Benton, Union, Pontotoc, Calhoun, Chickasaw, Webster, Clay, Choctaw, Oktibbeha, Winston, Neshoba, Kemper and Lauderdale County or other counties applicable to these conditions.

(3) The governing authorities of any municipality, town, or county in the state, or any person, firm or corporation may contribute or donate land, money or other property to the board of trustees of state institutions of higher learning in furtherance of the purpose of this section.

(4) The board of trustees of state institutions of higher learning is hereby authorized, upon the recommendation of the director of the agricultural and forestry experimental station at Mississippi State University of Agriculture and Applied Science, which recommendation is approved by and transmitted to said board by the president of said university, to establish said Pontotoc Ridge-Flatwoods soil experiment station, to receive and accept title to any land or money or property herein authorized or to be authorized, made available or to be made available by the state legislature, to purchase land, let contracts for the construction of necessary buildings, to equip same, and to further equip said experiment station with farm equipment and any and all other equipment, and to do all things necessary to effectuate the purposes of this section.

SOURCES: Codes, 1942, § 6699-02; Laws, 1948, ch. 193, §§ 1-4.

Cross References — Establishment of agricultural and forestry experimental station, see § 37-113-17.

Establishment of branch agricultural experimental stations, see § 37-113-21.

Retirement system for employees of experiment station and extension service, see § 37-113-25.

RESEARCH REFERENCES

Am Jur. 4 Am. Jur. Legal Forms 2d, Colleges and Universities §§ 60:141-60:148 (private gifts and bequests).

§ 37-113-25. Retirement system for employees of the agricultural and forestry experimental station and extension service.

The board of trustees of state institutions of higher learning is hereby authorized to establish and maintain a system of retirement for the employees of the agricultural and forestry experimental station and extension service, out of any federal funds available under the provisions of the act of congress, approved March 4, 1940, and out of contributions made by the employees of such experimental station and extension service.

In the establishment of such special retirement system, the board of trustees of state institutions of higher learning shall have full authority to make all needful rules and regulations, to carry into effect the provisions of this section.

SOURCES: Codes, 1942, § 6725-01; Laws, 1944, ch. 162, §§ 1, 2.

Cross References — Social security and state retirement and disability benefits generally, see §§ 25-11-3 et seq.

Establishment of agricultural and forestry experimental station, see §§ 37-113-17, 37-113-19.

Establishment of branch agricultural experimental stations, see §§ 37-113-21, 37-113-23.

§ 37-113-27. Funding of agricultural research program at Delta Branch Experiment Station.

In order to provide for a more comprehensive method of improvement, promotion and development of agricultural research at the Delta Branch Experiment Station, the tax collector of each county of the State of Mississippi located in whole or in part in a levee district, shall deduct annually from all state ad valorem taxes collected by him a sum equal to the avails of a levy of one mill on the dollar of the assessed valuation of taxable property within such county upon which state ad valorem taxes are levied and collected, provided that such county in its discretion levies the one-fourth mill provided for in the third paragraph of this section. Said tax collector is hereby authorized and directed to pay same to Mississippi State University of Agriculture and Applied Science.

Any funds so paid to said university shall be used for agricultural research at the Delta Branch Experiment Station, with primary attention being given to a cotton research program and for providing needed laboratories and other facilities and equipment for agricultural research.

The board of supervisors of any county coming within the provisions of this section shall be authorized to levy, at the time and in the manner other county tax levies are made, and such levy shall be made as a condition precedent to the operation of this section in such county, an ad valorem tax of one-fourth mill against all of the taxable property of such county. Said ad valorem tax levy shall be collected as other taxes are collected, and shall be paid into a special fund of such county and shall be paid over to the Mississippi State University of Agriculture and Applied Science and shall be used at the Delta Branch Experiment Station for agricultural research, with primary attention being given to a cotton research program and for providing laboratories and other facilities and equipment for agricultural research. Such tax levy shall be in addition to all other levies now authorized by law, and no limitation or inhibition now in the statute against the levying of such a tax shall be effective against such levy. Such one-fourth mill ad valorem levies shall not be reimbursed under the Mississippi homestead exemption laws.

In the event similar diversions are already made from the avails of the state ad valorem tax levy in such a county, then this section shall be considered as supplemental thereto, and such laws authorizing such diversions shall not apply to the provisions of this section.

SOURCES: Codes, 1942, § 6699-31; Laws, 1962, ch. 168, §§ 1-6; Laws, 1968, ch. 361, § 9, eff from and after January 1, 1972.

Cross References — Establishment of agricultural and forestry experimental station, see § 37-113-17.

Establishment of branch agricultural experimental stations, see § 37-113-21.

Leasing of hunting rights on certain land of Delta Branch Experiment Station prohibited, but public permitted to hunt on such land, see § 37-113-28.

§ 37-113-28. Leasing of hunting rights on certain land of Delta Branch Experiment Station prohibited; public permitted to hunt on such land.

Neither the Board of Trustees of State Institutions of Higher Learning, nor any person acting on behalf thereof, shall lease or rent hunting rights on any land located in Washington County, Mississippi, under the jurisdiction, ownership or trusteeship of the Mississippi Agriculture and Forestry Experiment Station, Delta Branch at Stoneville, but shall allow the public to hunt on such lands in accordance with the rules, regulations and permits as shall be adopted by the Delta Branch Experiment Station. The Department of Wildlife, Fisheries and Parks shall assist in the enforcement of such rules, regulations and permits as adopted by the Delta Branch Experiment Station, as well as enforcing the general hunting statutes of the State of Mississippi.

SOURCES: Laws, 1993, ch. 306, § 1, eff from and after passage (approved January 26, 1993).

Cross References — Establishment of agricultural and forestry experimental station, see § 37-113-17.

Establishment of branch agricultural experimental stations, see § 37-113-21.

§ 37-113-29. Camp for 4-H Club members in Panola County.

The agricultural extension service of the Mississippi State University of Agriculture and Applied Science, by and with the approval and consent of the president of said university and the board of trustees of state institutions of higher learning, is hereby authorized and empowered to create, establish, equip and maintain a 4-H Club demonstration camp on a designated area on Sardis Lake in Panola County, Mississippi, on lands belonging to the federal government and leased to the agricultural extension service for such purpose.

It shall be the duty and responsibility of the agricultural extension service of said university to direct and supervise the utilization of this facility in carrying out the purposes of this section. When not in use by the agricultural extension service for the purpose herein provided, this facility may be rented to other organizations for educational and recreational use only. Any money derived from such rental shall be used by the agricultural extension service by and with the approval of the president of said university and the board of trustees of state institutions of higher learning, for maintaining and further improving such facilities for use of the 4-H Clubs in Mississippi.

The purpose of this section is to authorize the agricultural extension service of said university, by and with the approval and consent of the president of said university and the board of trustees of state institutions of higher learning, to establish, equip and maintain this 4-H Club demonstration camp for the purpose of teaching these Mississippi boys and girls standards of better farm and home making, the importance of and the methods of conservation of our natural resources, and the development of character and leadership and training for citizenship. To accomplish such purposes, the agricultural extension service, by and with the approval and consent of the president of said university and the board of trustees of state institutions of higher learning, is authorized and empowered to do such things as may be necessary, and to prescribe such rules and regulations as it may deem proper to carry out and put into effect the intent and purpose of this section.

SOURCES: Codes, 1942, § 6699-05; Laws, 1950, ch. 198, §§ 1-3.

§ 37-113-31. Camp for 4-H Club members in Madison County.

The agricultural extension service of the Mississippi State University of Agriculture and Applied Science, by and with the approval and consent of the president of said university and the board of trustees of state institutions of higher learning, is hereby authorized and empowered to create, establish, equip and maintain a 4-H Club demonstration camp for Negro 4-H Club members, located on a designated area in Madison County, Mississippi, on lands belonging to the State of Mississippi.

It shall be the duty and responsibility of the agricultural extension service of said university to direct and supervise the utilization of this facility in carrying out the purposes of this section. When not in use by the agricultural extension service for the purpose herein provided, this facility may be rented to other Negro organizations for educational and recreational use only. Any money derived from such rental shall be used by the agricultural extension service by and with the approval of the president of said university and the board of trustees of state institutions of higher learning, for maintaining and further improving such facilities for use of the 4-H Clubs of Mississippi.

The purpose of this section is to authorize the agricultural extension service of Mississippi by and with the approval and consent of the president of said university and the board of trustees of state institutions of higher learning, to establish, equip and maintain this 4-H Club demonstration camp for the purpose of teaching the Negro boys and girls of Mississippi standards of better farm and home making, the importance of and the methods of conservation of our natural resources, and the development of character and leadership and training for citizenship. To accomplish such purposes, the agricultural extension service, by, and with the approval and consent of the president of said university and the board of trustees of state institutions of higher learning, is authorized and empowered to do such things as may be necessary, and to prescribe such rules and regulations as it may deem proper, to carry out and put into effect the intent and purpose of this section.

SOURCES: Codes, 1942, § 6699-06; Laws, 1950, ch. 195, §§ 1-3.

§ 37-113-33. Foundation herds of beef cattle, sheep and hogs.

The board of trustees of state institutions of higher learning is hereby authorized and empowered to purchase, breed, maintain, manage, show and sell foundation herds of beef cattle, sheep and hogs at the Mississippi State University of Agriculture and Applied Science. The said board is further authorized to establish necessary facilities, to employ and maintain necessary personnel, and to take any other action necessary to carry out this program.

The purpose of this program is to provide a means for the broadening, balancing, and rounding-out of courses in animal husbandry for the training of animal husbandry students in livestock breeding, feeding, fitting, showing, judging, buying and selling, and to establish and maintain a source of foundation seed stock.

Selected animals purchased, or produced, under this program may be sold only at public auctions sponsored by breed associations, after approval of the board of trustees of state institutions of higher learning. The proceeds accruing from the sales of such animals, from show premium money, or from any other source, shall revert to, and be used for the maintenance of the revolving fund, when established by law, to carry out this program.

This is a remedial statute and shall be liberally construed to accomplish its purpose.

SOURCES: Codes, 1942, § 6699-07; Laws, 1952, ch. 269, §§ 1-4.

§ 37-113-35. Survey of farm lands operated by state institutions; land use plan.

Mississippi State University of Agriculture and Applied Science is hereby authorized and directed, through its agricultural extension service or other appropriate divisions or services of the institution, to make a survey of all farms and farm lands operated by the various state institutions, and to prepare for each of the said institutions a five-year plan of land use based on good husbandry and the particular needs of each institution. Separate plans shall be made for each institution and shall be submitted to the governing authorities of the institution affected. The governing authorities of such institutions shall put such plan into effect as soon as may be practicable. The university shall also cause to be made a detailed report and compilation of the survey made at each institution, and the plan prepared for each, which report shall be printed and bound in book or pamphlet form and distributed as follows: ten (10) copies each to the governor and the legislative budget office, and one (1) copy to each member of the legislature, or state official or institution requesting the same.

Each year after submitting the aforesaid plan to the several institutions, the university, through its agricultural extension service or other appropriate divisions or services of the institution, shall make a semiannual inspection of each institution for which a plan was submitted, and determine what progress has been made by the institution in adopting and carrying into effect or to completion the plan prepared for it. A report of each inspection made hereunder shall be made to the governor and the legislative budget office.

SOURCES: Codes, 1942, § 6699-11; Laws, 1946, ch. 247, §§ 1, 2; Laws, 1984, ch. 488, § 203, eff from and after July 1, 1984.

Cross References — Joint legislative budget committee and legislative budget office, generally, see §§ 27-103-101 et seq.

§ 37-113-37. Inventory of livestock owned by state institutions; livestock program.

The heads of all state institutions owning any livestock shall make and file with the agricultural extension service of the Mississippi State University of Agriculture and Applied Science a complete and detailed inventory every three months of all livestock owned and used by such institutions. Such inventory shall be executed under oath, shall be on such forms as may be prescribed by the agricultural extension service, and shall fully describe and give the number and location of all such livestock and also such other information with reference thereto as the director of the agricultural extension service may require.

The agricultural extension service shall, for each of the institutions filing such inventories, inaugurate a livestock feeding, care and breeding program. It shall be the duty and responsibility of the executive head of each institution for which a program has been promulgated or inaugurated to see that such program is put into effect and fully complied with.

It shall be the duty of the said agricultural extension service to check each of the institutions coming hereunder at least once every six months to ascertain if the livestock program promulgated for it is being complied with and put into effect, to ascertain if all livestock is being properly inventoried, used and cared for, and to ascertain that such livestock is not being unduly dissipated or used for purposes not authorized by law.

If at any time it shall appear to the agricultural extension service that any institution coming hereunder is negligent in filing inventories hereunder or in carrying out the program promulgated for it, or is permitting its livestock to be unduly dissipated, or is using the same or any part thereof for purposes not authorized by law, the director of the agricultural extension service may, by order and until the convening of the next regular session of the legislature, prevent such institution from using any of its livestock for any purposes without first obtaining a permit from the director of said agricultural extension service, and the said director may limit the use of said livestock to such extent as he may deem necessary and proper for the best interest of the State of Mississippi.

If any official or employee of any state institution coming hereunder neglects, fails or refuses to comply with any of the terms or provisions of this section, the livestock program promulgated for such official or employee's institution hereunder, or any order of the director of the agricultural extension service issued hereunder, such official or employee shall be liable for a fine of not exceeding five hundred dollars ($500.00), and on conviction, shall be removed from his office or employment.

The agricultural extension service shall report to each session of the legislature any violations hereof, giving in detail all facts with reference thereto and also such other information relative to the livestock of the various institutions of the state as it may deem of interest to the legislature.

SOURCES: Codes, 1942, § 6699-21; Laws, 1946, ch. 298, §§ 1-6.

§ 37-113-39. Regulation of transportation of passengers for hire on university's campus and grounds.

No public automobile for the transportation of passengers for hire shall be operated on any of the highways or streets on the campus or grounds of the Mississippi State University of Agriculture and Applied Science without a license from said university to the owner thereof. No fee shall be charged for the issuance of such license and such license shall be subject to revocation by the university authorities at any time without notice. This section shall not apply to any common carrier of passengers who has duly qualified with the Mississippi public service commission.

Any person running or operating an automobile at any time in violation of this section shall be guilty of a misdemeanor. Upon conviction thereof, such person shall be punished by a fine of not more than one hundred dollars ($100.00) or by thirty days in jail or by both before any court of competent jurisdiction.

SOURCES: Codes, 1930, §§ 7193, 7194; 1942, §§ 6700, 6701; Laws, 1922, ch. 206; Laws, 1940, ch. 201.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 37-113-41. J. C. Hardy Memorial Fund.

The board of trustees of state institutions of higher learning is hereby authorized to establish a fund to be known as the J. C. Hardy Memorial Fund.

The fund herein authorized shall be raised and supplemented by donations, gifts, legacies, and otherwise. Under the supervision of said board of trustees, said fund or the proceeds therefrom shall be used to assist sons of low-income Mississippi citizens to meet their educational expenses at the Mississippi State University of Agriculture and Applied Science.

SOURCES: Codes, 1942, § 6702; Laws, 1940, ch. 197.

§ 37-113-43. Contributions by certain counties towards construction, erection and equipping of university facilities.

Any county of this state now or hereafter having a population of more than one hundred thousand according to the latest available census, and in which there is located a municipality of one hundred thousand or more, acting by and through its board of supervisors, is hereby authorized and empowered to contribute the sum of one million dollars ($1,000,000.00) toward the construction, erection and equipping of educational facilities to be utilized by Mississippi State University of Agriculture and Applied Science within such county, by the board of trustees of state institutions of higher learning.

SOURCES: Codes, 1942, § 2926-42; Laws, 1962, ch. 370, § 2.

§ 37-113-45. Issuance and sale of bonds; election; terms; tax levy.

Any such county as is provided for in Section 37-113-43 is hereby authorized and empowered to issue and sell its bonds, notes or other evidences of indebtedness for the purpose of providing funds with which to make the contribution or donation authorized under the provisions of said section. Such bonds, notes or other evidences of indebtedness shall not be issued in an amount which will exceed the limit of indebtedness of said county as such limit is prescribed by Sections 19-9-1 through 19-9-31, Mississippi Code of 1972. Before issuing any such bonds, notes or other evidences of indebtedness, the board of supervisors acting for such county shall adopt a resolution declaring its intention to issue the same, stating the amount and purpose thereof and fixing the date upon which an election will be held on the proposition. Notice of such election shall be given by publication of such resolution once a week for at least three consecutive weeks in at least one newspaper published in said county. The first publication of such notice shall be made not less than twenty-one days prior to the date fixed in such resolution for the holding of said election as aforesaid and the last publication shall be made not more than seven days prior to such date. At such election all qualified electors of said county may vote and the ballots used shall have printed thereon a brief statement of the amount and purpose of the bonds, notes or other evidences of indebtedness proposed to be issued and the voter shall vote by placing a cross (x) or check (√) opposite his choice on the proposition. The bonds, notes or other evidences of indebtedness authorized herein shall not be issued unless authorized by the affirmative vote of a majority of the qualified voters of said county who vote on the proposition at such election. Such election shall be conducted and the returns thereof made, canvassed, and declared as nearly as may be in like manner as is now or may hereafter be provided by law in the case of general elections in counties. In the event that the question of the issuance of such bonds, notes or other evidences of indebtedness be not authorized at such election, such question shall not again be submitted to a vote until the expiration of a period of six months, from and after the date of such election.

Such bonds, notes or other evidences of indebtedness shall bear such date or dates, shall be of such denomination or denominations, shall be payable at such place or places, shall bear such rate or rates of interest and shall mature in such amounts and at such times as may be provided and directed by the board of supervisors of said county. Such bonds shall bear interest at a rate or rates not exceeding six per cent per annum and shall mature in not more than twenty-five years from the date thereof and shall be sold for not less than par and accrued interest.

Any bonds authorized to be issued at an election as provided for in this section shall be issued by such county, acting by and through its board of supervisors, at such times and in such amounts as shall be provided for by resolution of the board of trustees of state institutions of higher learning.

All bonds, notes or other evidences of indebtedness issued hereunder shall be secured by a pledge of the full faith, credit and resources of such county. There shall annually be levied upon all taxable property within said county an ad valorem tax in addition to all other taxes, sufficient to provide for the payment of the principal of and the interest on said bonds, notes or other evidences of indebtedness as the same respectively mature and accrue.

SOURCES: Codes, 1942, § 2926-43; Laws, 1962, ch. 370, § 3.

Cross References — County acting generally with municipality within it, see § 17-1-5.

Uniform system for issuance of county bonds, see §§ 19-9-1 through 19-9-31.

§ 37-113-47. Utilization of proceeds of contributions.

The proceeds of any contribution made by any county under the provisions of Section 37-113-43, including the proceeds from the sale of any bonds issued for such purposes, shall be paid by the board of supervisors of such county into the state treasury into a special fund to the credit of the board of trustees of state institutions of higher learning, and shall thereafter be utilized and expended by said board of trustees of state institutions of higher learning in the construction, erection and equipping of educational facilities in such county to be utilized by the Mississippi State University of Agriculture and Applied Science.

SOURCES: Codes, 1942, § 2926-43; Laws, 1962, ch. 370, § 3.

Cross References — Uniform system for issuance of county bonds, see §§ 19-9-1 through 19-9-31.

§ 37-113-48. "Old Extension Service Building" designated "Lloyd-Ricks-Watson Building."

The building located at 255 Tracy Drive in Mississippi State, Mississippi, and also known as the "Old Extension Service Building," shall be named the "Lloyd-Ricks-Watson Building" after former university employees Edward R. Lloyd and James R. Ricks, and current university employee Vance H. Watson. Such employees have served as the Director of the Experiment Station and the Director of the Extension Service, and are the only three (3) individuals in history who have served in both capacities at Mississippi State University. Mississippi State University shall prepare a distinctive plaque to be placed in a prominent place inside the building, which states the background, accomplishments and service to the state of these university employees.

SOURCES: Laws, 2008, ch. 309, § 1, eff from and after passage (approved Mar. 17, 2008.)

§ 37-113-49. Contribution does not give county right in educational facilities nor impose maintenance obligation.

If any such county makes the contribution or donation as provided for in Section 37-113-43, neither such donation nor any provisions of Sections 37-113-43 through 37-113-49 shall be held to give rise to any right of title, lien, encumbrance or other right in the buildings, facilities or equipment so constructed or acquired and installed by means of or with the aid of such contribution or donation or upon the site on which they are located. Neither shall such donation nor any provision of said sections give rise to any right or obligation on the part of such county with respect to the operation or maintenance of said educational facilities and equipment.

SOURCES: Codes, 1942, § 2926-44; Laws, 1962, ch. 370, § 4.

§ 37-113-50. Mississippi Department of Agriculture and Commerce Bureau of Plant Industry Building designated "Robert Horne McCarty Building".

(1) The building known as the Mississippi Department of Agriculture and Commerce Bureau of Plant Industry Building on the campus of Mississippi State University in Starkville, Mississippi, shall be designated and henceforth be known as the "Robert Horne McCarty Building."

(2) The Mississippi Department of Agriculture and Commerce is hereby authorized to erect a suitable memorial marker at a site on the premises of the current Mississippi Department of Agriculture and Commerce Bureau of Plant Industry Building to be chosen with the approval of the family of Robert Horne McCarty.

SOURCES: Laws, 2001, ch. 330, § 1, eff from and after passage (approved Mar. 5, 2001).

COLLEGE OF VETERINARY MEDICINE

Sec.
37-113-51. Establishment.
37-113-53. Implementation of law.

§ 37-113-51. Establishment.

The board of trustees of state institutions of higher learning is hereby authorized and directed to establish a college of veterinary medicine at Mississippi State University at Starkville, Mississippi.

SOURCES: Laws, 1974, ch. 339, § 1, eff from and after passage (approved March 12, 1974).

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

RESEARCH REFERENCES

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J. 263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-113-53. Implementation of law.

The board is directed to take any and all necessary and proper action for the implementation of this section and Section 37-113-51, including but not limited to the appointment of a dean who will study and recommend to the board an adequate staff and whose responsibility will be to work with the state building commission in planning the construction and equipping of said college.

SOURCES: Laws, 1974, ch. 339, § 2, eff from and after passage (approved March 12, 1974).

Editor's Note — Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services. Section 7-1-451, however, provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

RESEARCH REFERENCES

ALR. Validity, construction, and effect of statutes or regulations governing practice of veterinary medicine. 8 A.L.R.4th 223.

STATE CERTIFICATION FOR THERAPEUTIC RIDING INSTRUCTORS

Sec.
37-113-61. State certification for therapeutic riding instructors; training to be provided by extension service; continuing education seminar required for yearly renewal of certification.

§ 37-113-61. State certification for therapeutic riding instructors; training to be provided by extension service; continuing education seminar required for yearly renewal of certification.

(1) As used in this section:

(a) "Extension service" means the Mississippi State University Extension Service.

(b) "Fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the following year.

(c) "Therapeutic riding" means the use of equine-facilitated activities for the purpose of contributing positively to the cognitive, physical, emotional and social well-being of people with disabilities.

(2) There is established a program of state certification for therapeutic riding instructors in Mississippi, which shall be administered by the Mississippi State University Extension Service. In order to receive certification under the state program, a therapeutic riding instructor must complete the training provided by the extension service, which shall address standards of safety for participants, volunteers, staff, equipment, facilities and horses, and standards

of health care for horses. The extension service shall provide, or facilitate through contracts with third parties, the training necessary to obtain certification.

(3) Initial and renewal certification under the state program will be valid for one (1) fiscal year. The initial certification will be valid for the fiscal year in which it is obtained. In order to renew the certification for later fiscal years, the instructor must attend, in each fiscal year, a continuing education seminar that is provided by or approved by the extension service.

(4) The extension service may charge reasonable fees for providing training, initial certification, and continuing education seminars.

(5) The state certification program is a program to identify and recognize those therapeutic riding instructors who have completed training in safety standards in therapeutic riding. The state certification program is not a regulatory program, and the extension service shall not have any regulatory authority over therapeutic riding instructors, facilities or programs in Mississippi.

SOURCES: Laws, 2003, ch. 432, § 1, eff from and after July 1, 2003.

CHAPTER 115

University of Mississippi

In General 37-115-1
School of Medicine 37-115-21
University of Mississippi Medical Center 37-115-41
School of Nursing 37-115-51
Local Governmental Issuance of Bonds for Benefit of University 31-115-61
School of Dentistry 37-115-101
School of Law 37-115-121

IN GENERAL

Sec.
37-115-1. Organization.
37-115-3. University lands shall not be taxed.
37-115-5. Lands shall not be leased save for an annual rent.

§ 37-115-1. Organization.

The University of Mississippi, incorporated on the twenty-fourth of February, A. D., 1844, shall continue to exist as a body-politic and corporate by that name and style, with all its property, real and personal, and with all the franchises, rights, powers and privileges heretofore conferred on it by law or properly incident to such a body and necessary to accomplish the end of its creation; said university may receive, hold and dispose of all real and personal property conveyed to it for such purpose.

SOURCES: Codes, Hutchinson's 1848, ch. 9, art. 31(1); 1857, ch. 11, art. 1; 1871, § 2062; 1880, § 745; 1892, § 4443; 1906, § 5022; Hemingway's 1917, § 7927; 1930, § 7197; 1942, § 6705.

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Contributions by certain counties towards construction and equipping of facilities for the University of Mississippi, see §§ 37-115-69 through 37-115-75.

Peace officers employed by Jackson State University may be vested with powers of constable for purpose of preventing violations of law that occur within 500 feet of university property, see § 37-105-3.

Inclusion of state-supported universities in small business consortium, see § 57-10-157.

Mississippi Law Research Institute constituting academic department of University of Mississippi, see § 57-55-5.

Mississippi Mineral Resources Institute, see § 57-55-9.

Small business development center, see § 57-55-11.

JUDICIAL DECISIONS

1. In general.
2. Immunity.

1. In general.

The trustees of the University of Mississippi have the authority to lease certain parts of the university lands and to renew said leases as a body corporate under ch. 118 Laws 1860 and § 745 Code 1880. State v. Hamilton, 116 Miss. 697, 77 So. 650 (1918).

2. Immunity.

University of Mississippi is arm of State of Mississippi; suit by university student injured in elevator on university is barred by Eleventh Amendment, as waiver of Eleventh Amendment protection between university and elevator company did not flow to student. Everhart v. University of Miss., 695 F. Supp. 883 (S.D. Miss. 1988).

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities § 9.

CJS. 14 C.J.S., Colleges and Universities §§ 3 et seq.

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J. 263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-115-3. University lands shall not be taxed.

The lands and property of the University of Mississippi shall not be subject to state, county or municipal taxation. The buildings and improvements that are or may be erected on any land belonging to the university that has been or may be leased to private persons for the purpose of affording cheap board to the students attending the institution, shall not be subject to taxation.

SOURCES: Codes, 1880, § 766; 1892, § 4459; 1906, § 5036; Hemingway's 1917, § 7934; 1930, § 7201; 1942, § 6707.

§ 37-115-5. Lands shall not be leased save for an annual rent.

The lands belonging to the University of Mississippi shall not be leased without a provision in the lease for the payment of an annual rent to the treasurer of the institution.

SOURCES: Codes, 1892, § 4460; 1906, § 5037; Hemingway's 1917, § 7935; 1930, § 7202; 1942, § 6708.

Cross References — Sale or lease of sixteenth section or lieu lands generally, see §§ 29-3-27, 29, 63, 65, 69 to 77, 81, 82, 85 to 88.

SCHOOL OF MEDICINE

Sec.	
37-115-21.	"Medical school" defined.
37-115-23.	Creation of medical school.
37-115-25.	University Hospital; University of Mississippi Medical Center and University Hospital authorized to enter into faculty physician and staff recruitment agreements .
37-115-27.	Location of school and hospital.
37-115-29.	Conveyance to University of Mississippi.
37-115-31.	Operation of hospital.
37-115-33.	Facilities for training nurses.
37-115-35.	Fielding L. Wright Memorial Health Fund established.

§ 37-115-21. "Medical school" defined.

Whenever used in Sections 37-115-21 through 37-115-33, the term "medical school" shall mean the four-year, standard medical school provided for in Section 37-115-23 as a department of the University of Mississippi.

SOURCES: Codes, 1942, § 6708-01; Laws, 1950, ch. 378, § 1.

ATTORNEY GENERAL OPINIONS

Sections 37-115-21 et seq. establish the University Medical Center and its teaching hospital independently of the certificate of need statutes and, therefore, the University of Mississippi Medical Center is not subject to the certificate of need provisions. Conerely, July 14, 2000, A.G. Op. #2000-0326.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 4 et seq.

CJS. 14 C.J.S., Colleges and Universities §§ 3 et seq.

§ 37-115-23. Creation of medical school.

There is hereby created a four-year, standard medical school as a department of the University of Mississippi, which school shall be equipped and operated as a standard medical school in accordance with the recommended standards of the Council on Medical Education and hospitals of the American Medical Association and the council of the Association of American Medical Colleges.

SOURCES: Codes, 1942, § 6708-02; Laws, 1950, ch. 378, § 2.

Cross References — Early admissions process for participants in Mississippi Rural Physicians Scholarship Program who apply to the University of Mississippi School of Medicine, see § 37-144-11.

Hospital reimbursement commission generally, see §§ 41-7-71 et seq.

Establishment of facilities for investigating deaths under the provisions of the Mississippi Medical Examiner Act of 1986, see § 41-61-77.

RESEARCH REFERENCES

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J. 263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-115-25. University Hospital; University of Mississippi Medical Center and University Hospital authorized to enter into faculty physician and staff recruitment agreements .

(1) There shall be built, equipped and operated as a part of the medical school, a teaching hospital of the size of not less than three-hundred-fifty-bed capacity, together with all ancillary buildings and physical facilities needful or proper for the establishment, operation and maintenance of such a hospital as a part of a fully accredited four-year medical school, including, clinical and outpatient services and all types of services deemed to be necessary or desirable as a part of the functioning of such a teaching hospital. Said teaching hospital shall be known as the University Hospital. There shall also be acquired and installed all needed equipment and supplies for the proper operation and maintenance of such medical school and hospital and other facilities for the purposes aforesaid. There shall be employed all needed personnel and services to operate said medical school and hospital and other facilities.

(2) As part of employing appropriate professional staff, the University Medical Center and University Hospital are authorized to enter into recruitment agreements to provide for needed faculty physicians and staff. Said agreements may include, but are not limited to, salary supplements, transfer and moving expenses and payment of medical school loans. Any amount so advanced shall be forgiven over not less than a three-year period of a year-for-year pro rata basis. In the event that the physician should leave University of Mississippi Medical Center employment, said physician shall repay any remaining sum(s) so advanced plus interest as negotiated in the agreement. Said amounts to be repaid over no more than a two-year period.

SOURCES: Codes, 1942, § 6708-03; Laws, 1950, ch. 378, § 3; Laws, 2009, ch. 414, § 1, eff from and after July 1, 2009.

Cross References — Contribution by certain counties to construction and equipment of university hospital, see § 37-115-61.

Priority in admitting patients to institutions, see § 41-7-87.

Funding programs at the University of Mississippi Medical Center that are related to prevention and cessation of the use of tobacco products and treatment of illnesses that are related to the use of tobacco products, see § 41-113-3.

JUDICIAL DECISIONS

1. Immunity of personnel.

Doctor, who was employed by a university medical center which was operated under Miss. Code Ann. § 37-115-25, was entitled to summary judgment in a medical malpractice suit because he acted as a state employee, and not an independent contractor, when he treated the patient in question; the medical center had complete control over the doctor's income and had a financial interest in his earnings, and because he was a state employee he was immune from suit. Meeks v. Miller, 956 So. 2d 864 (Miss. 2007).

The University of Mississippi Medical Center and the University Anesthesia Services Practice Group (UAS) established in connection with the Medical Center are instrumentalities of the State of Mississippi within the meaning of the Mississippi Tort Claims Act, Miss. Code Ann. §§ 11-46-1 through 11-46-23 and, as such waived their immunity against a claim for medical malpractice liability only to the extent that UAS had purchased liability insurance; further, a staff anesthesiologist who participated in an operation in which a child suffered brain damage while sedated was an employee of the Center entitled to immunity despite also being a member of UAS and despite the fact that the doctor had personal liability insurance. Mozingo v. Scharf, 828 So. 2d 1246 (Miss. 2002).

§ 37-115-27. Location of school and hospital.

The medical school and teaching hospital shall be built and equipped together, in connection with each other, or as nearly together or connected as may promote the most efficient operation of both of them in proper coordination one with the other. The medical school and teaching hospital shall be located and built upon part of the lands owned by the State of Mississippi in or near the City of Jackson, Hinds County, Mississippi, and commonly known as the old asylum lands, to be selected by the State Building Commission. The medical school and teaching hospital may have other locations as determined to be reasonable and necessary by the University of Mississippi Medical Center. All University of Mississippi Medical Center locations shall provide in the aggregate not less than fifty percent (50%) of their services to indigent persons including qualified beneficiaries of the State Medicaid Program.

SOURCES: Codes, 1942, § 6708-04; Laws, 1950, ch. 378, § 4; Laws, 1996, ch. 496, § 1, eff from and after passage (approved April 11, 1996).

Editor's Note — Laws of 1996, ch. 496, § 3, provides as follows:

"SECTION 3. Within sixty (60) days after passage of this act, the University of Mississippi Medical Center shall submit to the Board of Trustees of State Institutions of Higher Learning for its approval permanent procedures to be followed in establishing other locations or establishing any other programs authorized under this act."

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services. Section 7-1-451, however, provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Laws of 2010, ch. 526, § 3 provides:

"(1) The Department of Finance and Administration, acting on behalf of the University of Mississippi Medical Center, is authorized to donate and convey to the Jackson Medical Mall Foundation certain real property located on Bailey Avenue in the City of Jackson, Mississippi, being more particularly described as follows:

"EXHIBIT 'A'

"A certain lot or parcel of land situated in the NW ¼ of the SW ¼ of Section 27, T 6 N, R 1 E, First Judicial District of Hinds County, Mississippi, fronting 80 feet on the east line of Bailey Avenue, and being more particularly described as follows: Being at an iron stake on the east line of Bailey Avenue a distance of 265 feet measured northerly along the east line of Bailey Avenue from its intersection with the north line of Peters Street, as both streets were laid out as of April, 1969, and improved in the City of Jackson, Mississippi, said point of beginning also being the northwest corner of that certain parcel of land conveyed by Ammco Properties, Inc., to George E. Butler of Mississippi, Inc., by deed dated July 16, 1963, and recorded in Deed Book 1432, Page 418, in the office of the Hinds County Chancery Clerk at Jackson, Mississippi, and run thence southerly along the east line of Bailey Avenue for a distance of 80 feet to an iron stake; run thence easterly along a line parallel with the north line of Peters Street, said line being the north line of that certain lot or parcel of land conveyed by George E. Butler of Mississippi, Inc., to William B. Ball, Jr., et al by deed dated October 24, 1967, and recorded in Deed Book 1722, Page 313, in the office of said Chancery Clerk, for a distance of 193 feet to an iron stake; run thence southerly along a line parallel with the east line of Bailey Avenue, said line being the east line of the said property of William B. Ball, et al, for a distance of 185 feet to an iron stake on the north line of Peters Street at the southeast corner of the said Ball property; run thence easterly along the north line of Peters Street, and along the north line of Peters Street extended easterly, for a distance of 514.45 feet to a concrete monument at the intersection of the said north line of Peters Street extended easterly with the southwesterly right-of-way line of the Yazoo Mississippi Valley Railroad, now the Illinois Central Railroad; run thence northwesterly along the said southwestern right-of-way line of the Illinois Central Railroad for a distance of 348.75 feet to the northeast corner of the said property of George E. Butler of Mississippi, Inc.; run thence westerly and parallel with the north line of Peters Street for a distance of 482.74 feet to the point of beginning.

"LESS AND EXCEPT that parcel of land located on the west side of the above-described property conveyed to the City of Jackson, Mississippi by virtue of Warranty Deed dated 7/13/79 and recorded in Deed Book 2654, Page 78.

"(2) The State of Mississippi shall retain all mineral rights to the real property donated in subsection (1)."

Laws of 2014, ch. 456, § 1 provides:

"SECTION 1. (1) The University of Mississippi Medical Center ("UMMC"), with the approval of the Board of Trustees of State Institutions of Higher Learning, is authorized to enter into an agreement to lease a part of its real property to the entity selected in the RFP process conducted by the University of Mississippi Medical Center for a term of no more than forty (40) years. The property is located in the City of Jackson, Hinds County, Mississippi, and is more particularly described as follows:

[For a complete description of the property, see Section 1 of Chapter 456, Laws of 2014]

"(2) The lease may include an option to renew for no more than two (2) successive terms of twenty (20) years each. The first option to renew shall be at the option of the lessee, while the second option to renew shall be at the option of the lessor.

"(3) The lease of the real property described in subsection (1) of this section shall consist of mixed-use development improvements, which, at a minimum contain:

"(a) Approximately ten thousand (10,000) square feet of street-level office space;

"(b) Approximately two hundred twenty-four (224) Class A apartment homes;

"(c) Structured and surface parking; and

"(d) Landscaping and green space buffers.

"The faculty, staff and student body of UMMC shall have the right of first offer for the apartment homes developed within the leased area before being made available to the public.

"(4) The lease and any amendments to the lease shall be subject to the approval of the Board of Trustees of State Institutions of Higher Learning.

"(5) All proceeds derived or received from all leases entered into under this section shall be deposited in a special fund for the use and benefit of UMMC."

Cross References — Establishment of facilities for investigating deaths under the provisions of the Mississippi Medical Examiner Act of 1986, see § 41-61-77.

Mississippi Medicaid generally, see §§ 43-13-101 through 43-13-145.

§ 37-115-29. Conveyance to University of Mississippi.

The state building commission shall construct the buildings and all other related facilities for said medical school and teaching hospital. When such buildings shall have been constructed and made ready for occupancy, the lands so selected by the state building commission for the use of said medical school and teaching hospital, together with the buildings and other improvements erected thereon, shall be conveyed by the state building commission to the University of Mississippi, and title to said property shall be vested in the University of Mississippi. Said medical school and teaching hospital shall be operated as departments of the University of Mississippi.

SOURCES: Codes, 1942, § 6708-09; Laws, 1950, ch. 378, § 9.

Editor's Note — Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services. Section 7-1-451, however, provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

§ 37-115-31. Operation of hospital.

The teaching hospital and related facilities shall be utilized to serve the people of Mississippi generally. The teaching hospital and related facilities shall have the power necessary to enter into group purchasing arrangements as deemed reasonable and necessary, and such powers as are necessary to establish and operate health maintenance organizations, preferred provider organizations, prepaid health benefit plans and other managed care entities regulated by Section 83-41-301 et seq., and the power to establish rates and charges for health care services, either on a fee for service, discounted, capitated or other risk based payment basis, and provided that any such entity shall primarily provide care and services to indigent persons or qualified beneficiaries of the State Medicaid Program; and further provided, however, any entity, or any affiliate of any such entity, that now or in the future provides management services to the University of Mississippi Medical Center or any of its facilities, shall not be affiliated in any manner with any managed care product established by the University of Mississippi Medical Center under the authority of this section. There shall be a reasonable volume of free work; however, said volume shall never be less than one-half of its bed capacity for indigent patients who are eligible and qualified under the state charity fund for charity hospitalization of indigent persons, or qualified beneficiaries of the State Medicaid Program. The income derived from the operations of said hospital, including all facilities thereof, shall be utilized toward the payment of the operating expenses of said hospital, including all facilities thereof.

SOURCES: Codes, 1942, § 6708-10; Laws, 1950, ch. 378, § 10; Laws, 1996, ch. 496, § 2, eff from and after passage (approved April 11, 1996).

Editor's Note — Laws, 1996, ch. 496, § 3, provides as follows:

"SECTION 3. Within sixty (60) days after passage of this act, the University of Mississippi Medical Center shall submit to the Board of Trustees of State Institutions of Higher Learning for its approval permanent procedures to be followed in establishing other locations or establishing any other programs authorized under this act."

Cross References — Exemption of University of Mississippi Medical Center from statutory restrictions on the purchase and use of wireless communication devices, see § 25-53-191.

Priority in admitting patients to institutions, see § 41-7-87.

Mississippi Medicaid generally, see §§ 43-13-101 through 43-13-145.

JUDICIAL DECISIONS

1. In general.
2. Immunity of personnel.

1. In general.

Primary issue was whether the physicians were acting as employees of the University of Mississippi Medical Center (UMMC), or were independent contractors for purposes of immunity or liability, and although the physicians did wear two hats, as they were entitled to engage in separate private practice, to an extent, the appellate court, applying the standard of Miller v. Meeks, held the State exercised reasonable control over the physicians, including the power to terminate the physicians' contract, the uncontroverted evidence was that the physicians were acting as employees of UMMC at the time of the subject surgery on the complaining patient, and pursuant to Mississippi's former sovereign immunity law, Miss. Code Ann. § 11-46-7(2) (Supp. 1991), the physicians were immune from liability. Brown v. Warren, 858 So. 2d 168 (Miss. Ct. App. 2003).

2. Immunity of personnel.

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The University of Mississippi Medical Center and the University Anesthesia Services Practice Group (UAS) established in connection with the Medical Center are instrumentalities of the State of Mississippi within the meaning of the Mississippi Tort Claims Act, Miss. Code Ann. §§ 11-46-1 through 11-46-23 and, as such waived their immunity against a claim for medical malpractice liability only to the extent that UAS had purchased liability insurance; further, a staff anesthesiologist who participated in an operation in which a child suffered brain damage while sedated was an employee of the Center entitled to immunity despite also being a member of UAS and despite the fact that the doctor had personal liability insurance. Mozingo v. Scharf, 828 So. 2d 1246 (Miss. 2002).

RESEARCH REFERENCES

ALR. Liability of health maintenance organizations (HMOs) for negligence of member physicians. 51 A.L.R.5th 271.

§ 37-115-33. Facilities for training nurses.

The state building commission in the development of the architectural facilities of the medical center and hospital facilities is hereby authorized, empowered and directed to erect and equip adequate facilities for the training of nurses under such rules and regulations as may be promulgated by the board of trustees of state institutions of higher learning.

SOURCES: Codes, 1942, § 6708-15; Laws, 1950, ch. 378, § 15.

Editor's Note — Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services. Section 7-1-451, however, provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

§ 37-115-35. Fielding L. Wright Memorial Health Fund established.

The board of trustees of state institutions of higher learning is hereby authorized and empowered to establish a fund to be known as "The Fielding L. Wright Memorial Health Fund," which fund shall be administered by said board.

The corpus of "The Fielding L. Wright Memorial Health Fund" shall consist of any moneys appropriated to it by the state legislature and any funds received by donation, gift, legacy, or otherwise, the said board of trustees being hereby specifically authorized and empowered to accept such funds. All funds received by said board of trustees shall be invested in the following classes of securities, preference being in the order listed:

(a) Bonds, notes, certificates, and other valid obligations of the State of Mississippi, or any county or city of the State of Mississippi, or of any school district bonds of the State of Mississippi;

(b) Bonds, notes, certificates, and other valid obligations of the United States;

(c) Bonds, notes, debentures and other securities issued by any federal instrumentality and fully guaranteed by the United States; or

(d) Interest-bearing bonds or notes which are general obligations of any other state in the United States or of any city or county therein, provided that any such city or county had a population as shown by the federal census next preceding such investment of not less than twenty-five thousand inhabitants, and provided that any such state, city or county has not defaulted for a period longer than thirty days in the payment of principal or interest on any of its general obligation indebtedness during a period of ten calendar years immediately preceding such investment.

All interest derived from investments and any gains from the sale or exchange of investments shall be expended by the staff of the University Medical Center, under the supervision of the director of the University Medical Center, for medical research in behalf of The Fielding L. Wright Memorial Health Fund.

SOURCES: Codes, 1942, § 6725-21; Laws, 1958, ch. 465, §§ 1-4.

Cross References — Social security and state retirement and disability benefits generally, see §§ 25-11-3 et seq.

Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Agricultural experimental stations and branch stations, see §§ 37-113-17 through 37-113-23.

RESEARCH REFERENCES

Am Jur. 4 Am. Jur. Legal Forms 2d, Colleges and Universities §§ 60:141-60:248 (private gifts and bequests).

UNIVERSITY OF MISSISSIPPI MEDICAL CENTER

Sec.

37-115-41. Criminal history record checks and fingerprinting required for new employees providing direct patient care; disciplinary checks with professional licensing agencies; applicants aggrieved by employment decision based on criminal history record check may show mitigating circumstances; immunity for employment decisions made in compliance with this section.
37-115-43. Authority to create Center of Excellence; purpose; programs, services, major research initiatives; Children's Justice Center Fund created.
37-115-45. Mississippi Burn Center; establishment; funding.
37-115-47. Authorization to dispose of properly preserved food through charitable donation.
37-115-49. University of Mississippi Medical Center - ACT Center Fund created; purpose.

§ 37-115-41. Criminal history record checks and fingerprinting required for new employees providing direct patient care; disciplinary checks with professional licensing agencies; applicants aggrieved by employment decision based on criminal history record check may show mitigating circumstances; immunity for employment decisions made in compliance with this section.

(1) For the purposes of this section:

(a) "Applicant" means any person who is applying to become an employee of UMMC.

(b) "Employee" means an employee, contractor, temporary worker or consultant.

(c) "UMMC" means the University of Mississippi Medical Center.

(2) The University of Mississippi Medical Center shall fingerprint and perform a criminal history record check on all new employees that work in or provide direct patient care. In addition, UMMC shall perform a disciplinary check with the professional licensing agency of the employee, if any, to determine if any disciplinary action has been taken against the employee by that agency. Except as otherwise provided in this section, no employee of UMMC hired on or after July 1, 2004, shall be permitted to provide direct patient care until the results of the criminal history record check have revealed no disqualifying record or the employee has been granted a waiver. In order to determine the applicant's suitability for employment, the applicant shall be fingerprinted. Fingerprints shall be submitted to the Department of Public Safety by UMMC via scanning or other electronic method, with the results processed through the Department of Public Safety's Criminal Information Center. If no disqualifying record is identified at the state level, the applicant's fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. If the criminal history record check discloses a felony conviction, guilty plea or plea of nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, sex offense listed in Section 45-33-23(h), child abuse, arson, grand larceny, burglary, gratification of lust or aggravated assault, or felonious abuse and/or battery of a vulnerable adult that has not been reversed on appeal or for which a pardon has not been granted, the applicant shall not be eligible to be employed at UMMC.

(3) Notwithstanding the provisions of subsection (2) of this section, any such applicant may be employed on a temporary basis pending the results of the criminal history record check. Any employment contract with an applicant during the application process shall be voidable upon receipt of a disqualifying criminal history record check if no waiver is granted under subsection (4) of this section.

(4) UMMC may, in its discretion, allow any applicant aggrieved by an employment decision under this section to appear before the UMMC hiring officer, or his or her designee, to show mitigating circumstances that may exist and allow the applicant to be employed at UMMC. UMMC, upon report and recommendation of the hiring officer, may grant waivers for those mitigating circumstances, which shall include, but not be limited to: (a) age at which the crime was committed; (b) circumstances surrounding the crime; (c) length of time since the conviction and criminal history since the conviction; (d) work history; (e) current employment and character references; and (f) other evidence demonstrating the ability of the individual to perform the employment responsibilities competently and that the individual does not pose a threat to the health or safety of the patients admitted to UMMC.

(5) Upon the receipt of an applicant's criminal history record check that reveals no disqualifying event, UMMC shall, within two (2) weeks of the

notification of no disqualifying event, provide the applicant with a notarized letter signed by the vice chancellor, or his or her authorized designee, confirming the applicant's suitability for employment based on his or her criminal history record check. An applicant or employee may use that letter for a period of two (2) years from the date of the letter to seek employment at any covered entity, as defined in Section 43-11-13(5), without the necessity of an additional criminal history record check under Section 43-11-13(5). Any covered entity presented with the letter may rely on the letter for a period of two (2) years from the date of the letter without having to conduct or have conducted a criminal history record check on the applicant or employee.

(6) UMMC may charge a fee not to exceed Fifty Dollars ($50.00) for fingerprinting applicants, students, employees, contractors, consultants, outside agency personnel, visiting faculty, researchers or any other individual(s) that may provide direct services to UMMC.

(7) UMMC and its agents, officers, employees, attorneys and representatives shall be presumed to be acting in good faith for any employment decision or action taken under this section. The presumption of good faith may be overcome by a preponderance of the evidence in any civil action. UMMC or its agents, officers, employees, attorneys and representatives shall not be held liable in any employment decision or action based in whole or in part on compliance with or attempts to comply in good faith with the requirements of this section.

SOURCES: Laws, 2004, ch. 538, § 2, eff from and after July 1, 2004.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in a statutory reference in subsection (2). The reference to "Section 45-33-23(g)" was changed to "Section 45-33-23(h)." The Joint Committee ratified the correction at its August 1, 2013, meeting.

Editor's Note — Chapter 357, Laws of 2010, changed references to "vulnerable adult" to "vulnerable person."

Cross References — Criminal history record checks and fingerprinting for health care professional/vocational technical students, see § 37-29-232.

Criminal history record checks and fingerprinting required for applicants for medical licensure, physician assistant licensure, osteopathic licensure, and podiatric licensure, and on applicants for reinstatement of a license, see §§ 73-25-3, 73-25-14, 73-25-32, 73-26-3, 73-27-5, and 73-27-12.

§ 37-115-43. Authority to create Center of Excellence; purpose; programs, services, major research initiatives; Children's Justice Center Fund created.

(1) The University of Mississippi Medical Center in collaboration with the Mississippi Department of Human Services and the Office of the Attorney General is authorized and empowered to establish a Center of Excellence (Center), to provide care for abused and neglected children at the Blair E. Batson Hospital for Children located in Jackson, Mississippi, where suspected victims of child maltreatment referred by the Department of Human Services

or law enforcement will receive comprehensive physical examinations conducted by medical professionals who specialize in child maltreatment. The University of Mississippi Medical Center shall promulgate such policies as may be necessary and desirable to carry out the programs of the Center. The Center shall serve as a resource for the assessment, investigation and prosecution of child maltreatment. The Center shall work in collaboration with the Office of the Attorney General, the Mississippi Department of Human Services and other such state agencies and entities that provide services to children, to ensure that CARE Clinic services are provided in a uniform fashion throughout the state.

(2) The Department of Pediatrics may use the Center for educational and outreach programs, telemedicine consultations, to develop satellite clinics in other locations in the state in cooperation with the local community or private hospital when applicable, and to conduct major research initiatives in child maltreatment.

(3) The Center of Excellence shall provide services to maltreated children and comply with national certification standards as necessary to provide services to the Department of Human Services, the youth courts, state child advocacy centers, district attorney's offices and law enforcement agencies.

(4) There is created in the State Treasury a special fund to be known as the Children's Justice Center Fund. The University of Mississippi Medical Center shall expend funds pursuant to appropriation therefor by the Legislature for the support and maintenance of the Children's Justice Center. The University of Mississippi Medical Center is authorized to accept any and all grants, donations or matching funds from private, public or federal sources in order to add to, improve and enlarge the physical facilities of the Center and to expend any such funds for the support and maintenance of the Center. Assessments from Section 99-19-73 designated for the Children's Justice Center Fund shall be deposited into the fund. Monies remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned from the investment of monies in the fund shall be deposited to the credit of the fund.

SOURCES: Laws, 2007, ch. 561, § 1; Laws, 2008, ch. 413, § 1; Laws, 2008, ch. 499, § 1; Laws, 2010, ch. 498, § 1; Laws, 2012, ch. 554, § 5, eff from and after July 1, 2012.

Joint Legislative Committee Note — Section 1 of ch. 413, Laws of 2008, effective from and after July 1, 2008 (approved April 2, 2008), amended this section. Section 1 of ch. 499, Laws of 2008, effective upon passage (approved April 21, 2008), also amended this section. The amendments to these sections do not conform and do not meet the Joint Committee's criteria for integration. Pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect earlier; therefore, as set out above, this section reflects the language of Section 1 of ch. 423, Laws of 2008.

Editor's Note — Laws of 2007, ch. 561, § 2, as amended by Laws of 2008, ch. 413, § 2, and as amended by Laws of 2008, ch. 499, § 2, provides:

"SECTION 2. This act shall take effect and be in force from and after its passage."

Laws of 2012, ch. 554, § 6 provides:

"SECTION 6. During fiscal year 2013, the following agencies shall have the authority to receive, budget and expend the following amounts generated from the assessments enacted in House Bill No. 878, 2012 Regular Session [Chapter 554, Laws of 2012]:

"University of Mississippi Medical Center for the Children's Justice Center	$750,000.00
"Board of Trustees of State Institutions of Higher Learning for the DuBard School for Language Disorders	$300,000.00
"Attorney General's office for the Children's Advocacy Centers of Mississippi	$650,000.00
"Attorney General's office for the Motorcycle Officers Training Program	$50,000.00

"The above listed escalations shall be done in accordance with the rules and regulations of the Department of Finance and Adminstration in a manner consistent with the escalation of federal funds."

This note was set out to correct an error in the 2012 Cumulative Supplement.

Amendment Notes — The 2012 amendment, in (4), deleted "hereby" preceding "created" and substituted "Children's Justice Center Fund" for "Children's Justice Fund" in the first sentence, deleted the former second sentence, which read: "The State Treasurer shall transfer into said special fund any funds returned to the State Treasury by the MCI WorldCom Settlement by the Mississippi Children's Justice Center pursuant to agreement with the State Auditor", inserted "Children's Justice" in the present second sentence, and added the last two sentences.

§ 37-115-45. Mississippi Burn Center; establishment; funding.

(1) The University of Mississippi Medical Center shall establish a separate unit at the medical center for the treatment of burn victims, which shall be known as the Mississippi Burn Center. The opening and operation of the Mississippi Burn Center shall be conditioned upon the Board of Trustees of State Institutions of Higher Learning making a written determination, spread upon their minutes, that adequate funds are available from public and/or private sources for the annual operating cost of the facility.

(2) The Legislature may appropriate funds for the construction of the Mississippi Burn Center, and may appropriate sufficient funds annually to the University of Mississippi Medical Center for the operation of the Mississippi Burn Center.

SOURCES: Laws, 2007, ch. 569, § 1, eff from and after July 1, 2007.

§ 37-115-47. Authorization to dispose of properly preserved food through charitable donation.

(1) The University of Mississippi Medical Center is authorized to dispose of food that has been frozen or properly preserved for human consumption through donation to charitable facilities, charitable organizations and/or individuals providing charitable services as the Medical Center deems appropriate.

(2) The executive director of the charitable facility or organization, receiving such food, or his authorized designee, shall agree to a waiver of

liability in favor of the State of Mississippi and the University of Mississippi Medical Center stating that such donations are being provided in the condition used by the State of Mississippi and the University Medical Center, and without warranty of any nature.

SOURCES: Laws, 2009, ch. 534, § 1, eff from and after July 1, 2009.

§ 37-115-49. University of Mississippi Medical Center - ACT Center Fund created; purpose.

(1) During fiscal year 2010, the State Fiscal Officer shall transfer the sum of Three Million Dollars ($3,000,000.00) from the State General Fund to the University of Mississippi Medical Center - ACT Center Fund created in subsection (2) of this section.

(2)(a) There is created in the State Treasury a special fund to be known as the "University of Mississippi Medical Center - ACT Center Fund," which shall consist of monies deposited therein under subsection (1) of this section and monies from any other source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the special fund.

(b) Monies in the fund may be used by the University of Mississippi Medical Center, upon appropriation by the Legislature, for the purpose of providing funds for the ACT Center for Tobacco Treatment, Education and Research at the University of Mississippi Medical Center.

SOURCES: Laws, 2009, ch. 563, § 17, eff from and after passage (approved May 15, 2009.)

Editor's Note — Laws of 2009, ch. 563, § 18, provides:

"SECTION 18. This act shall take effect and be in force from and after its passage; however, Section 17 of this act shall not take effect unless House Bill No. 364, 2009 Regular Session, is enacted into law, and Section 17 shall take effect and be in force from and after the effective date of House Bill No. 364, 2009 Regular Session."

House Bill No. 364, 2009 Regular Session, was enacted into law as Chapter 562, effective May 15, 2009.

SCHOOL OF NURSING

SEC.
37-115-51. School of nursing created.

§ 37-115-51. School of nursing created.

The legislature hereby finds that there is great need of additional and better trained nurses in Mississippi and the purpose of this section is to meet that need to the extent herein provided.

The board of trustees of state institutions of higher learning is hereby authorized and directed to establish a school of nursing at the University of

Mississippi under the jurisdiction of the dean of the school of medicine or such other authority as said board of trustees may determine, and other regularly constituted administrative authorities of the university.

Said board of trustees shall provide for such school, such buildings and equipment, and such teaching staff and other personnel as may be deemed appropriate for the establishment and operation of such school of nursing and for the performance of the other functions herein provided for, all of which shall, however, be done within the appropriations made for such purposes.

Such school of nursing shall, under the direction and supervision of the dean of the school of medicine and the other regularly constituted administrative authorities of the university and of said board of trustees and under curricula to be prescribed by said board, and beginning each of its functions at such time as may be determined by said board, carry on a teaching course, looking to the conferring of bachelor's or master's degrees in nursing.

Such school of nursing shall under the same direction, supervision, control and conditions as set forth in the fourth paragraph hereof, have authority, in its discretion, to arrange and contract with hospitals, hospital schools of nursing or other similar institutions, for students in the school of nursing to take clinical training and practice in such institutions. It shall have the further authority to contract with hospitals, hospital schools of nursing or other similar institutions with respect to providing to any such institution instructors or instruction services from the university school of nursing upon full or part time basis and upon such basis of compensation or reimbursement of costs as may be deemed reasonable and proper in view of the public interests involved.

Under the same supervision, direction, control and conditions as are set forth in the fourth paragraph hereof, said school of nursing shall also administer such scholarship programs in nursing education and such activities with respect to recruitment of nursing students and counseling work with such students and prospective students as may be provided for by the legislature from time to time.

SOURCES: Codes, 1942, § 6708-21; Laws, 1948, ch. 287, §§ 1-7.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

RESEARCH REFERENCES

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LOCAL GOVERNMENTAL ISSUANCE OF BONDS FOR BENEFIT OF UNIVERSITY

Sec.
37-115-61. Contributions by certain counties toward construction, erection and equipping of University Hospital.
37-115-63. Issuance and sales of bonds; election; terms; tax levy.
37-115-65. Utilization of proceeds of contributions.
37-115-67. Contribution does not give county right in facilities nor impose maintenance obligation.
37-115-69. Contributions by certain counties towards construction, erection and equipping of university facilities.
37-115-71. Issuance and sale of bonds; election; terms; tax levy.
37-115-73. Utilization of proceeds of contributions.
37-115-75. Contribution does not give county right in educational facilities nor impose maintenance obligation.

§ 37-115-61. Contributions by certain counties toward construction, erection and equipping of University Hospital.

Any county of this state now or hereafter having a population of more than 100,000 according to the latest available census, acting by and through its board of supervisors, is hereby authorized and empowered to contribute the sum of one million five hundred thousand dollars ($1,500,000.00) toward the construction, erection and equipping of a teaching hospital and related facilities in the four year school of medicine of the University of Mississippi created and authorized by the terms and provisions of Sections 37-115-21 through 37-115-33.

SOURCES: Codes, 1942, § 6708-19; Laws, 1950, ch. 379, §§ 1-4.

Cross References — Four-year medical schools and University Hospital generally, see §§ 37-115-21 et seq.

§ 37-115-63. Issuance and sales of bonds; election; terms; tax levy.

Any such county as is provided for in Section 37-115-61 is hereby authorized and empowered to issue and sell its bonds, notes or other evidences of indebtedness for the purpose of providing funds with which to make the contribution or donation authorized under the provisions of said section. Such bonds, notes or other evidences of indebtedness shall not be issued in an amount which will exceed the limit of indebtedness of said county as such limit is prescribed by Laws, 1932, ch. 235 as now or hereafter amended. Before issuing any such bonds, notes or other evidences of indebtedness, the board of supervisors, acting for such county, shall adopt a resolution declaring its intention to issue the same, stating the amount and purpose thereof and fixing the date upon which an election will be held on the proposition. The full text of such resolution shall be published once a week for at least three consecutive weeks in at least one newspaper published in said county. The first publication of such notice shall be made not less than twenty-one days prior to the date fixed in such resolution as aforesaid and the last publication shall be made not more than seven days prior to such date. The bonds, notes or other evidences of indebtedness authorized herein shall not be issued unless authorized by the affirmative vote of a majority of the qualified voters of said county who vote on the proposition at such election. Such election shall be conducted and the returns thereof made, canvassed and declared as nearly as may be in like manner as is now or may hereafter be provided by law in the case of general elections in counties. In the event that the question of the issuance of such bonds, notes or other evidences of indebtedness be not authorized at such election, such question shall not again be submitted to a vote until the expiration of a period of six months from and after the date of such election.

Such bonds, notes or other evidences of indebtedness shall bear such date or dates, shall be of such denomination or denominations, shall be payable at such place or places, shall bear such rate or rates of interest and shall mature in such amounts and at such times as may be provided and directed by the board of supervisors of said county. Such bonds shall bear interest at a rate or rates not exceeding six per cent per annum and shall mature in not more than twenty-five years from the date thereof and shall be sold for not less than par and accrued interest.

All bonds, notes or other evidences of indebtedness issued hereunder shall be secured by a pledge of the full faith, credit and resources of such county. There shall annually be levied upon all taxable property within said county an ad valorem tax in addition to all other taxes, sufficient to provide for the payment of the principal of and the interest on said bonds, notes or other evidences of indebtedness as the same respectively mature and accrue.

SOURCES: Codes, 1942, § 6708-19; Laws, 1950, ch. 379, §§ 1-4.

Cross References — Uniform system for issuance of county bonds, see §§ 19-9-1 through 19-9-31.

Four-year medical schools and University Hospital generally, see §§ 37-115-21 et seq.

§ 37-115-65. Utilization of proceeds of contributions.

The proceeds of any contribution made by any county under the provisions of Section 37-115-61, including the proceeds of any bonds issued for such purpose, shall be paid by the board of supervisors of such county into the state treasury into a special fund in the state treasury to the credit of the state building commission and shall thereafter be utilized and expended by said building commission for the construction, erection and equipping of a teaching hospital and related facilities in the manner and under the terms, provisions and conditions of Sections 37-115-21 through 37-115-33.

SOURCES: Codes, 1942, § 6708-19; Laws, 1950, ch. 379, §§ 1-4.

Editor's Note — Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services. Section 7-1-451, however, provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Cross References — Uniform system for issuance of county bonds, see §§ 19-9-1 through 19-9-31.

Four-year medical schools and University Hospital generally, see §§ 37-115-21 et seq.

§ 37-115-67. Contribution does not give county right in facilities nor impose maintenance obligation.

If any such county makes the contribution or donation as provided for in Section 37-115-61, neither such donation nor any provisions of Sections 37-115-61 through 37-115-67 shall be held to give rise to any right of title, lien, encumbrance or other right in the buildings, facilities or equipment so constructed or acquired and installed by means of or with the aid of such contribution or donation or upon the site on which they are located. Neither shall such donation nor any provisions of said sections give rise to any right or obligation on the part of such county with respect to the operation or maintenance of said hospital, facilities or equipment.

SOURCES: Codes, 1942, § 6708-19; Laws, 1950, ch. 379, §§ 1-4.

Cross References — Four-year medical schools and University Hospital generally, see §§ 37-115-21 et seq.

§ 37-115-69. Contributions by certain counties towards construction, erection and equipping of university facilities.

Any county of this state now or hereafter having a population of more than one hundred thousand according to the latest available census, and in which there is located a municipality of one hundred thousand or more, acting by and through its board of supervisors, is hereby authorized and empowered to contribute the sum of one million dollars ($1,000,000.00) toward the construction, erection and equipping of educational facilities to be utilized by the University of Mississippi within such county, by the board of trustees of state institutions of higher learning.

SOURCES: Codes, 1942, § 2926-41; Laws, 1962, ch. 370, § 1.

Cross References — County acting generally with municipality within it, see § 17-1-5.

Mississippi State University of Agriculture and Applied Science generally, see §§ 37-113-1 et seq.

§ 37-115-71. Issuance and sale of bonds; election; terms; tax levy.

Any such county as is provided for in Section 37-115-69 is hereby authorized and empowered to issue and sell its bonds, notes or other evidences of indebtedness for the purpose of providing funds with which to make the contribution or donation authorized under the provisions of said section. Such bonds, notes or other evidences of indebtedness shall not be issued in an amount which will exceed the limit of indebtedness of said county as such limit is prescribed by Sections 19-9-1 through 19-9-31, Mississippi Code of 1972. Before issuing any such bonds, notes or other evidences of indebtedness, the board of supervisors acting for such county shall adopt a resolution declaring its intention to issue the same, stating the amount and purpose thereof and fixing the date upon which an election will be held on the proposition. Notice of such election shall be given by publication of such resolution once a week for at least three consecutive weeks in at least one newspaper published in said county. The first publication of such notice shall be made not less than twenty-one days prior to the date fixed in such resolution for the holding of said election as aforesaid and the last publication shall be made not more than seven days prior to such date. At such election all qualified electors of said county may vote and the ballots used shall have printed thereon a brief statement of the amount and purpose of the bonds, notes or other evidences of indebtedness proposed to be issued and the voter shall vote by placing a cross (X) or check (√) opposite his choice on the proposition. The bonds, notes or other evidences of indebtedness authorized herein shall not be issued unless authorized by the affirmative vote of a majority of the qualified voters of said county who vote on the proposition at such election.

Such election shall be conducted and the returns thereof made, canvassed, and declared as nearly as may be in like manner as is now or may hereafter be provided by law in the case of general elections in counties. In the event that the question of the issuance of such bonds, notes or other evidences of indebtedness be not authorized at such election, such question shall not again be submitted to a vote until the expiration of a period of six months, from and after the date of such election.

Such bonds, notes or other evidences of indebtedness shall bear such date or dates, shall be of such denomination or denominations, shall be payable at such place or places, shall bear such rate or rates of interest and shall mature in such amounts and at such times as may be provided and directed by the board of supervisors of said county. Such bonds shall bear interest at a rate or rates not exceeding six per cent per annum and shall mature in not more than twenty-five years from the date thereof and shall be sold for not less than par and accrued interest.

Any bonds authorized to be issued at an election as provided for in this section shall be issued by such county, acting by and through its board of supervisors, at such times and in such amounts as shall be provided for by resolution of the board of trustees of state institutions of higher learning.

All bonds, notes or other evidences of indebtedness issued hereunder shall be secured by a pledge of the full faith, credit and resources of such county. There shall annually be levied upon all taxable property within said county an ad valorem tax in addition to all other taxes, sufficient to provide for the payment of the principal of and the interest on said bonds, notes or other evidences of indebtedness as the same respectively mature and accrue.

SOURCES: Codes, 1942, §§ 2926-42, 2926-43; Laws, 1962, ch. 370, §§ 2, 3.

Cross References — Uniform system for issuance of county bonds, see §§ 19-9-1 through 19-9-31.

§ 37-115-73. Utilization of proceeds of contributions.

The proceeds of any contribution made by any county under the provisions of Section 37-115-69, including the proceeds from the sale of any bonds issued for such purposes, shall be paid by the board of supervisors of such county into the state treasury into a special fund to the credit of the board of trustees of state institutions of higher learning, and shall thereafter be utilized and expended by said board of trustees of state institutions of higher learning in the construction, erection and equipping of educational facilities in such county to be utilized by the University of Mississippi.

SOURCES: Codes, 1942, § 2926-43; Laws, 1962, ch. 370, § 3.

§ 37-115-75. Contribution does not give county right in educational facilities nor impose maintenance obligation.

If any such county makes the contribution or donation as provided for in Section 37-115-69, neither such donation nor any provisions of Sections 37-115-69 through 37-115-75 shall be held to give rise to any right of title, lien, encumbrance or other right in the buildings, facilities or equipment so constructed or acquired and installed by means of or with the aid of such contribution or donation or upon the site on which they are located. Neither shall such donation nor any provision of said sections give rise to any right or obligation on the part of such county with respect to the operation or maintenance of said educational facilities and equipment.

SOURCES: Codes, 1942, § 2926-44; Laws, 1962, ch. 370, § 4.

SCHOOL OF DENTISTRY

SEC.
37-115-101. Direction and authority to establish.
37-115-103. Object and purpose.
37-115-105. When school may be in operation, staff employed and construction begun.
37-115-107. Dean, faculty, staff and other employees; physical plant; courses of study and research.
37-115-109. Recognition and accreditation.
37-115-111. Lands and buildings for school; payment for construction cost; "School of Dentistry Fund."

§ 37-115-101. Direction and authority to establish.

The board of trustees of state institutions of higher learning is hereby directed and authorized to establish a school of dentistry at the University of Mississippi Medical Center in Jackson.

SOURCES: Laws, 1973, ch. 388, § 1, eff from and after passage (approved March 28, 1973).

§ 37-115-103. Object and purpose.

The object and purpose of the establishment of a school of dentistry at the University of Mississippi Medical Center shall be the encouragement of the study of dentistry toward the doctor of dental medicine degree, as well as the continued education of the state's dental health professions; and the encouragement of dental research and the improvement of dental health.

SOURCES: Laws, 1973, ch. 388, § 2, eff from and after passage (approved March 28, 1973).

§ 37-115-105. When school may be in operation, staff employed and construction begun.

The school of dentistry created and authorized by Sections 37-115-101 through 37-115-111 shall be in operation within three (3) years from the date the legislature makes funds available for the construction of a building to house said school; provided, however, that no staff may be employed and no construction may begin until one million two hundred fifty thousand dollars ($1,250,000.00) from the City of Jackson and one million two hundred fifty thousand dollars ($1,250,000.00) from Hinds County has been deposited in the state treasury for use by the building commission in construction and furnishing of the dental school. The board of trustees of state institutions of higher learning is authorized and directed to take any and all necessary and proper actions for the implementation of this section.

SOURCES: Laws, 1973, ch. 388, § 3, eff from and after passage (approved March 28, 1973).

Editor's Note — Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services. Section 7-1-451, however, provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

§ 37-115-107. Dean, faculty, staff and other employees; physical plant; courses of study and research.

It shall be the duty of the board of trustees of state institutions of higher learning to elect or appoint a dean of this school; to determine and provide for an adequate faculty, staff and other employees; to fix and provide for the compensation of said faculty, staff and employees; to provide an adequate physical plant for this school; to prescribe the courses of study and research compatible with the objects and purposes hereinabove set forth; and to do and accomplish all other related functions consistent with the implementation of Sections 37-115-101 through 37-115-111.

SOURCES: Laws, 1973, ch. 388, § 4, eff from and after passage (approved March 28, 1973).

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

§ 37-115-109. Recognition and accreditation.

The board of trustees of state institutions of higher learning is directed, empowered and authorized to take necessary and proper actions to assure that the school of dentistry of the University of Mississippi Medical Center, as hereby established, acquires and maintains recognition and accreditation in local, regional and national accreditation associations at least at the level of its counterparts in the southeastern region of the United States and on a level with the other professional schools of this state.

SOURCES: Laws, 1973, ch. 388, § 5, eff from and after passage (approved March 28, 1973).

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

§ 37-115-111. Lands and buildings for school; payment for construction cost; "School of Dentistry Fund."

The state building commission is authorized and directed to provide suitable land presently state owned or received as a gift, and buildings to house the school of dentistry; and payment for the construction costs of such buildings shall be made from any money made available to carry out the provisions of Sections 37-115-101 through 37-115-111. Any funds appropriated or granted from any source shall be put into a fund in the office of the state treasurer to be designated as the "School of Dentistry Fund."

SOURCES: Laws, 1973, ch. 388, § 6, eff from and after passage (approved March 28, 1973).

Editor's Note — Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services. Section 7-1-451, however, provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

SCHOOL OF LAW

SEC.
37-115-121. Robert C. Khayat Law Center designated.

§ 37-115-121. Robert C. Khayat Law Center designated.

The new building, currently under construction at the University of Mississippi School of Law, located in Oxford, Mississippi, shall be named the

"Robert C. Khayat Law Center." The University of Mississippi School of Law shall prepare a distinctive plaque, to be placed in a prominent place within the building, which states the background, accomplishments and service to the university of Dr. Khayat.

SOURCES: Laws, 2007, ch. 449, § 1, eff from and after passage (approved Mar. 26, 2007.)

CHAPTER 117

Mississippi University for Women

Sec.
37-117-1. Organization.
37-117-3. Purpose and aim of university.
37-117-5. Apportionment of students.
37-117-7. Making and announcement of apportionment of students.
37-117-9. Certificates of selection.
37-117-11. Dormitory privileges.

§ 37-117-1. Organization.

The institution incorporated by the act of the legislature, approved March 12, 1884, and established in pursuance thereof, shall continue to exist as a body politic and corporate by the name of the "Mississippi College for Women," with all its property and franchises, rights, powers and privileges conferred on it by law, or properly incident to such a body and necessary to accomplish the purpose of its creation; said college may receive and hold all real estate and personal property conveyed or given to it for such purposes. However, the name "Mississippi State College for Women" is hereafter changed to "Mississippi University for Women," without interference with the rights, powers and prerogatives of said college which continue in all respects. Whenever the name "Mississippi College for Women" appears the same is construed to denote "Mississippi University for Women."

SOURCES: Codes, 1892, § 2295; 1906, § 2523; Hemingway's 1917, § 4948; Hemingway's 1921 Supp. § 5729; 1930, § 7204; 1942, § 6710; Laws, 1920, ch. 256; Laws, 1974, ch. 367, § 2, eff from and after passage (approved March 15, 1974).

Editor's Note — Laws of 2010, ch. 467, § 1 provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey certain real property and any improvements thereon at the Mississippi University for Women, located in the City of Columbus, Lowndes County, Mississippi, known as the "Carrier Lodge," and more particularly described as follows:

> "The South Half (S ½) of Fractional Square 25 of Moore's Survey of the City of Columbus, Mississippi, as shown by the official map or plat of the City of Columbus, Lowndes County, Mississippi.
>
> "That part of Square Number Fifteen (15) of Moore's Survey of and in the City of Columbus, Lowndes County, Mississippi, known and described as follows: Beginning at the northwest corner of said Square No. 15 of Moore's Survey aforesaid; thence running east along the northern boundary line of said Square a distance of 173 feet, more or less, to a line of trees running north and south through said Square; thence running south along said line of trees a distance of 150 feet; thence running west on a line parallel with the north line of said Square a distance of 173 feet; thence running north a distance of 150 feet to the point of beginning; said property being more particularly described as and enclosed by a line run as follows:
>
> "Beginning at the southeast corner of the intersection of South Eighth Avenue and South First Street in the City of Columbus, Mississippi (said point of beginning

being the intersection of the south line of said South Eighth Avenue with the east line of said South First Street); thence running north 79 degrees 50 minutes east along the south line of South Eighth Avenue a distance of 165.5 feet to an iron pin; thence running south 14 degrees 30 minutes east (at an interior angle of 91 degrees 47 minutes) a distance of 149 feet to an iron pin; thence running south 80 degrees 10 minutes west (at an interior angle of 88 degrees 13 minutes) a distance of 169 feet to an iron pin on the east line of South First Street (west line of said Square No. 15 of Moore's Survey aforesaid); thence running north 13 degrees 20 minutes west (at an interior angle of 90 degrees 30 minutes) along the east line of South First Street (west line of said Square No. 15 of Moore's Survey aforesaid) a distance of 150 feet to the point of beginning (the northwest corner of the tract described having an interior angle of 89 degrees 30 minutes); as per map or plat of survey thereof by C.L. Wood, Civil Engineer, dated July 26, 1949, Columbus, Mississippi; and being the same property conveyed by The Refuge Cotton Oil Company to Kraft Foods Company by deed dated June 30, 1950, recorded in Land Record Number 216, Page 177 in the Chancery Clerk's Office of Lowndes County, Mississippi.

"All of Square No. 24 of Moore's Survey in and according to the plan of the City of Columbus, Mississippi, less and except therefrom, however, 150 feet off the entire North end of said Square No. 24 of Moore's Survey.

"ALSO, the West Half (W ½) of Square No. 15 of Moore's Survey, in and according to the plan of said City of Columbus, Mississippi, less and except therefrom; however, 150 feet off of the entire North end thereof heretofore conveyed by F.J. Jacob to Refuge Cotton Oil Co. by deed dated April 30, 1925 and recorded in Deed Book 125 at Page 182 of the land records of Lowndes County, Mississippi; and less and except therefrom also, the following described lot: Beginning at a point on the West Boundary line of said Square No. 15 of Moore's Survey, 242 feet South of the Northwest corner of said Square; thence East, 20 feet; thence South, 75 feet; thence West, 20 feet; thence North, along the West boundary line of said Square, 75 feet to the point of beginning, being the same property conveyed by F.M. Jacob to the Refuge Cotton Oil Co. by deeds recorded in Deed Book 145 at Page 302 and Page 441 of the land records of Lowndes County, Mississippi.

"ALSO, that part of the Southeast Quarter (SE ¼) of Square No. 15 of Moore's Survey in and according to the plan of said City of Columbus, Mississippi, described as: Beginning at the point of intersection of the East boundary line of said Square No. 15 of Moore's Survey, with the North boundary line of the right of way of the G.M. & O. Railroad, and running thence West parallel with the South boundary line of said Square, 165 feet; thence South, 16 feet; thence East, 93 feet to the North boundary line of the G.M. & O. Railroad property; thence in a Northeasterly direction along the North boundary line of said G.M. & O. Railroad property, to the point of beginning.

"ALSO, a triangular strip in said Square 15 of Moore's Survey in and according to the plan of said City of Columbus, Mississippi described as: Beginning at the point 165 feet West of the Southeast corner of said Square; thence North, 40 feet; thence in a Southeasterly direction, a distance of 93 feet to a point on the South boundary line of said Square, which point is 99 feet East of the point of beginning; thence West along said South boundary line, 99 feet to the point of beginning.

"(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers selected by the Department of Finance and Administration.

"(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

"(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of the Mississippi University for Women."

Laws of 2011, ch. 361, § 1, provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to donate and convey certain, to the City of Columbus, Mississippi, real property and any improvements thereon at the Mississippi University for Women, located in the City of Columbus, Lowndes County, Mississippi, and more particularly described as follows:

"PARCEL 1

"Beginning at a point 344 feet North of the Southeast corner of the Northeast Quarter (NE ¼) of Section Twenty-one (21), Township Eighteen (18), Range Eighteen (18) West, said point being on the eastern boundary of said section and also on the eastern boundary of South 15th Street in Columbus, Mississippi, thence West 150 feet to the Southeast corner of Block One (1), Sherrod's Subdivision (1904) as shown by plat of record in Plat Book 1, Page 42, of the land records of Lowndes County, Mississippi; thence North 15 degrees West 809 feet or to the Southern right-of-way of the old Forest Railroad; thence Southeasterly along said right-of-way line of said railroad following the curve of said railroad 419 feet to the East boundary line of said Section 21, Township 18, Range 18 West; thence South along the East boundary line of said Section 21, 572 feet to the point of beginning, all lying in the Northeast Quarter (NE ¼) of said Section 21, Township 18, Range 18 West, and containing approximately 3.8 acres.

"PARCEL 4

"That part of Block One (1), Sherrod's Subdivision, 1904, as shown by plat of record in Plat Book No. 1, Page 42 of the land records of Lowndes County, Mississippi, more particularly described as follows:

"Beginning at the Southeast corner of said Block One (1) of said Subdivision; thence West along the North right-of-way of 10th Avenue South 115 feet to the Southwest corner of said Block 1 of said Subdivision; thence North along West boundary of said block a distance of 130 feet to the Northwest corner of said block; thence East along the North side of said Block 78.8 feet; thence South 15 degrees East 140 feet to the point of beginning, containing 0.305 acres, more or less; all in Lowndes County, Mississippi.

"Said above described property containing, in the aggregate, 15.721 acres, more or less, and being expressly SUBJECT TO all easements for installation and maintenance of public utilities and drainage, and rights-of-way for public streets and roads heretofore established and now existing upon said property, such utility easement including, but not being limited to, electric transmission line easements in favor of the United States of America, the City of Columbus, Mississippi, and Mississippi Power Company, granted by instruments recorded in Book 166 at Page 320, Book 342 at Pages 421-426, and Book 358 at Pages 506-508 of the land records of Lowndes County, Mississippi, and sewer line easement conveyed to the City of Columbus, Mississippi, by deed recorded in Book 246 at Page 22 of the land records of said county and state.

"(2) If at any time after the donation of the real property described in subsection (1) of this section the City of Columbus, Lowndes County, Mississippi, ceases to use the real property for the purposes intended at the time of donation, the city shall forfeit its rights, title and interest in the real property, and all of the rights, title and interest in the real property shall revert back to the State of Mississippi, to be held for the use and benefit of the Board of the Mississippi University for Women, under the direction and control of the Board of Trustees of State Institutions of Higher Learning.

"(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section."

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Inclusion of state-supported universities in small business consortium, see § 57-10-157.

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§ 37-117-3. Purpose and aim of university.

The purpose and aim of the Mississippi State College for Women is the moral and intellectual advancement of the girls of the state by the maintenance of a first-class institution for their education in the arts and sciences, for their training in normal school methods and kindergarten, for their instruction in bookkeeping, photography, stenography, telegraphy, and typewriting, and in designing, drawing, engraving, and painting, and their industrial application, and for their instruction in fancy, general and practical needlework, and in such other industrial branches as experience, from time to time, shall suggest as necessary or proper to fit them for the practical affairs of life.

SOURCES: Codes, 1892, § 2296; 1906, § 2524; Hemingway's 1917, § 4949; 1930, § 7205; 1942, § 6711.

Editor's Note — Section 37-117-1 provides that the name "Mississippi State College for Women" is hereafter changed to "Mississippi University for Women".

JUDICIAL DECISIONS

1. In general.

Denial of admission to the School of Nursing of the Mississippi University for Women of otherwise qualified male applicant is sexually discriminatory and a violation of 20 USCS § 1681. Mississippi Univ. for Women v. Hogan, 458 U.S. 718, 102 S. Ct. 3331, 73 L. Ed. 2d 1090 (1982).

§ 37-117-5. Apportionment of students.

The right belongs to each county to have a number of girls admitted, proportionate to its number of educable girls as compared with the whole number in the state. The total attendance at any session shall not exceed the entire allotment to the several counties for such session.

SOURCES: Codes, 1892, § 2305; 1906, § 2533; Hemingway's 1917, § 4953; 1930, § 7209; 1942, § 6714.

§ 37-117-7. Making and announcement of apportionment of students.

The apportionment of students to be admitted to the Mississippi State College for Women shall be made and announced by the president of the college annually, and communicated to the county superintendents of education by the first of August, or as soon thereafter as practicable. No applicant under sixteen years of age shall be admitted to the institution.

SOURCES: Codes, 1892, § 2306; 1906, § 2534; Hemingway's 1917, § 4954; 1930, § 7210; 1942, § 6715.

Editor's Note — Section 37-117-1 provides that the name "Mississippi State College for Women" is hereafter changed to "Mississippi University for Women".

§ 37-117-9. Certificates of selection.

The superintendent of education of each county, after due notice published, shall examine applicants, not qualified to enter by certificate from an accredited school, upon questions prepared and submitted by the president of the Mississippi State College for Women, and, with the consent of the board of supervisors, shall give certificates of selection to the number of girls to which his county is entitled, in addition to those already in the said college, if any. County superintendents shall make their appointments of students to the said college not later than July 1 of each year.

The certificate of selection shall be attested by the clerk of the board of supervisors, under its seal, and shall entitle the holder to admission into the said college, with all the privileges thereof, to pursue all the industrial branches selected, and to enter the subclass or class for which she is fitted.

SOURCES: Codes, 1892, §§ 2307, 2308; 1906, §§ 2535, 2536; Hemingway's 1917, §§ 4955, 4956; 1930, §§ 7211, 7212; 1942, §§ 6716, 6717.

Editor's Note — Section 37-117-1 provides that the name "Mississippi State College for Women" is hereafter changed to "Mississippi University for Women".

§ 37-117-11. Dormitory privileges.

The privilege of rooming in the dormitories at the Mississippi State College for Women belongs to the free students, and to the due quota of girls from each county, in preference to all others. The basis of apportionment is hereby fixed at the present dormitory capacity. However, this provision shall not be construed to exclude pupils from free tuition who pay their board elsewhere.

SOURCES: Codes, 1892, § 2304; 1906, § 2532; Hemingway's 1917, § 4952; 1930, § 7208; 1942, § 6713.

Editor's Note — Section 37-117-1 provides that the name "Mississippi State College for Women" is hereafter changed to "Mississippi University for Women".

CHAPTER 119

University of Southern Mississippi

Sec.
37-119-1. Organization.
37-119-3. Object of the university.
37-119-5. Restrictions as to admission.
37-119-7. Bond issue for improving athletic stadium.
37-119-9. Authorization to borrow funds to establish certified registered nurse anesthetist education and training program.
37-119-11. DuBard School for Language Disorders Fund created.

§ 37-119-1. Organization.

The institution incorporated by an act of the legislature, approved March 30, 1910, and established in pursuance thereof, shall continue to exist as a body-politic and corporate by the name of University of Southern Mississippi, with all its property and franchises, rights, powers and privileges conferred on it by law, or properly incident to such body and necessary to accomplish the purpose of its creation; said university may receive and hold all real estate and personal property conveyed or given it, and wherever the term of Mississippi Southern College appears in the laws of the State of Mississippi the same shall be construed to refer to the University of Southern Mississippi.

SOURCES: Codes, Hemingway's 1917, § 6078; 1930, § 7223; 1942, § 6727; Laws, 1910, ch. 119; Laws, 1924, ch. 295; Laws, 1940, ch. 190; Laws, 1962, ch. 373.

Editor's Note — Laws of 2011, ch. 378, § 1, provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey parcels of certain state-owned real property and any improvements thereon under the possession and control of the University of Southern Mississippi Gulf Coast, located in the City of Pass Christian, Harrison County, Mississippi, known as the 'Huckleberry Hill,' being in Section 7, Township 8 South, Range 12 West, of the First Judicial District of Harrison County, Mississippi, and more particularly described as follows:

[For complete description of the property, see Laws of 2011, ch. 378, § 1.]

"(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of which who shall be selected by the Department of Finance and Administration, and both of which shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

"(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

"(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of the University of Southern Mississippi Gulf Coast."

Laws of 2012, ch. 337, § 1, provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey parcels of certain state-owned real property and any improvements thereon under the possession and control of the University of Southern Mississippi Gulf Coast, located in the City of Long Beach, Harrison County, Mississippi, being in Harrison County, Mississippi, and more particularly described as follows:

[For complete description of the property, see Laws of 2012, ch. 337, § 1.]

"(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of which who shall be selected by the Department of Finance and Administration, and both of which shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board. The real property described in subsection (1) may only be sold to a nonprofit entity located adjacent to that real property and with whom the university has begun negotiations to sell such real property.

"(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

"(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of the University of Southern Mississippi Gulf Coast."

Laws of 2012, ch. 460, § 1, provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey certain state-owned real property under the possession and control of the University of Southern Mississippi, being in Block 27 of the City of Hattiesburg, Forrest County, Mississippi, and more particularly described as follows:

[For complete description of the property, see Laws of 2012, ch. 460, § 1.]

"(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of whom shall be selected by the Department of Finance and Administration, and both of whom shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

"(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

"(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of the University of Southern Mississippi."

Laws of 2013, ch. 400, § 1, provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey certain state-owned real property and any improvements thereon under the possession and control of the University of Southern Mississippi, located in Jackson County, Mississippi, and more particularly described as follows:

[For a complete description of the property, see § 1, ch. 400, Laws of 2013]

"(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of which who shall be selected by the Department of Finance and Administration, and both of which shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

"(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

"(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into the M.M. Roberts Endowment Fund administered by the University of Southern Mississippi."

Laws of 2014, ch. 415, § 1 provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey certain state-owned real property and any improvements thereon under the possession and control of the University of Southern Mississippi, located in D'Iberville, Harrison County, Mississippi, and more particularly described as follows:

[For a complete description of the property, see Section 1 of Chapter 415, Laws of 2014]

"(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of which who shall be selected by the Department of Finance and Administration, and both of which shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

"(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

"(4) The proceeds generated from the sale of the property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury to be expended only for the benefit of the University of Southern Mississippi."

Laws of 2014, ch. 415, § 2 provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the University of Southern Mississippi and with the approval of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey or lease parcels of certain state-owned real property and any improvements thereon under the possession and control of the University of Southern Mississippi, located in the City of Hattiesburg, Forrest County, Mississippi, and more particularly described as follows:

[For a complete description of the property, see Section 2 of Chapter 415, Laws of 2014]

"(2)(a) If sold, the real property described in subsection (1) of this section and any improvements thereon shall be sold for not less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of whom shall be selected by the Department of Finance and Administration, and both of whom shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

"(b) If the real property described in subsection (1) of this section is leased, the University of Southern Mississippi, with the approval of the Board of Trustees of State Institutions of Higher Learning, is authorized to negotiate all aspects of any lease and any terms and ancillary agreements pertaining to any lease as may be reasonably necessary to effectuate the intent and purposes of this section and to ensure a fair and equitable return to the state. Any lease approved and entered into on the university's behalf shall not be cancelled by successor boards based on the binding successor doctrine.

"(3) The property described in subsection (1) of this section shall be sold or leased to result in the highest and best use of the property and to ensure that the property is used in a manner that will not interfere with the operation of the University of Southern Mississippi.

"(4) The State of Mississippi shall retain all mineral rights to the real property sold or leased under this section.

"(5) The Department of Finance and Administration may recover its costs associated with the transaction authorized by this section from the proceeds of the sale or lease of the real property described in subsection (1) of this section and the net proceeds of the sale or lease shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of the University of Southern Mississippi."

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Peace officers employed by University of Southern Mississippi may be vested with powers of constable for purpose of preventing violations of law that occur within 500 feet of university-owned property, see § 37-105-3.

Inclusion of state-supported universities in small business consortium, see § 57-10-157.

Mississippi Polymer Institute, see § 57-55-13.

JUDICIAL DECISIONS

1. In general.
2. Employment.

1. In general.

Finding against the student in her action against a state university and a professor after she suffered a third-degree burn at an iron pour demonstration was improper because the state university was not protected by discretionary function immunity and was liable for the professor's negligence pursuant to the waiver of sovereign immunity; it was difficult to fathom how the professor's failure to put down dry sand before the pour involved a policy judgment of a social, political, or economic nature. Pritchard v. Von Houten, 960 So. 2d 568 (Miss. Ct. App. 2007), writ of certiorari denied en banc by 959 So. 2d 1051, 2007 Miss. LEXIS 391 (Miss. 2007).

The University of Southern Mississippi is an agency of the state, controlled by a legislative grant of authority to the Board of Trustees of State Institutions of Higher Learning. Bruner v. University of S. Miss., 501 So. 2d 1113 (Miss. 1987).

2. Employment.

The University of Southern Mississippi was not liable to an assistant coach under an employment contract which he allegedly entered into with the university's head football coach, because the head football coach was without authority to offer a valid employment contract which can only be created where the Board of Trustees of State Institutions of Higher Learning approves a nomination of the school's president, as shown upon the minutes of the board of trustees. Bruner v. University of S. Miss., 501 So. 2d 1113 (Miss. 1987).

RESEARCH REFERENCES

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J. 263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-119-3. Object of the university.

The principal object of the University of Southern Mississippi shall be to qualify teachers for the public schools of this state, by imparting instruction in the art and practice of teaching in all branches of study which pertain to a common school education, and such other studies as the board of trustees of state institutions of higher learning may from time to time prescribe.

SOURCES: Codes, Hemingway's 1917, § 6079; 1930, § 7229; 1942, § 6731; Laws, 1910, ch. 119; Laws, 1948, ch. 297, § 1.

Cross References — Holding of teachers' institute or summer school, see § 37-53-1.

§ 37-119-5. Restrictions as to admission.

No person shall be eligible to admission to the University of Southern Mississippi, who shall not have completed the studies of course prescribed by law for the common or public schools of the state.

SOURCES: Codes, Hemingway's 1917, § 6080; 1930, § 7230; 1942, § 6732; Laws, 1910, ch. 119; Laws, 1948, ch. 297, § 2.

§ 37-119-7. Bond issue for improving athletic stadium.

The University of Southern Mississippi (herein sometimes referred to as the "university") is authorized and empowered to require the state building commission to issue bonds in an amount not exceeding the sum of seven hundred fifty thousand dollars ($750,000.00), bearing interest at a rate not exceeding six per cent per annum, for the purpose of and to be expended in extending, adding to and improving the athletic stadium on its campus; to impose student athletic fees; to impose charges, in addition to and distinguished from the established price of admission, upon persons, other than students, for the privilege of attending events held in such stadium, which such charges shall be exempt from any amusement tax now levied and collected in the State of Mississippi, and to immediately commence, prior to the issuance and sale of the bonds herein authorized and to continue, the collection of such charges; and to apply to the satisfaction and retirement, as and when due, of the principal of and interest on such bonds, said athletic fees and said charges, and also, rental income from the dormitory facilities now in the stadium, and income, not otherwise appropriated or allocated, from any other sources. Such bonds shall be authorized by the board of trustees of state institutions of higher learning in the manner now provided by Sections 37-101-91 through 37-101-103, and all of the provisions of said sections (except as herein otherwise provided and as are not in conflict with the provisions hereof) shall be applicable to the authorization and issuance of such bonds. Reference in Sections 37-101-95, 37-101-101, to "dormitories, dwellings or apartments" shall be understood to apply also to all other projects authorized to be financed under the provisions of Section 37-101-99.

Upon request of the university, acting through its president and financial secretary, authorization having been first obtained from the board of trustees of state institutions of higher learning, the state building commission shall issue and sell bonds of the university at not less than par and accrued interest in the manner provided by Section 21-27-45, Mississippi Code of 1972, for the sale of bonds of municipalities issued thereunder and upon terms and at interest rates, not to exceed the maximum therein authorized, to be fixed by the state building commission. The state building commission is hereby authorized to supervise the contracting for, and the erection of, all buildings erected, extended, added to, or improved under the provisions of this section. The board of trustees of state institutions of higher learning is hereby authorized and empowered to specify the nature of such extensions, additions, improvements or new construction, and shall approve the plans and specifications therefor prior to the letting of any new contract for any such work. All contracts let under the supervision of the state building commission shall be let as provided by law for other contracts let by said commission.

The board of trustees of state institutions of higher learning, in the resolution authorizing such bonds, may provide for the imposition of such student athletic fees, such charges for the privilege of attending events held in such stadium (as hereinabove distinguished from the price of admission), such rental charges for use of the dormitories facilities now in the stadium and for application to the retirement of such bonds of such other sources of income, not otherwise appropriated or allocated, as it may consider desirable. Said board may provide for the collection and the allocation of such fees and charges. Such fees and charges or other income shall always be in such amounts as will assure the prompt payment of principal of and interest on such bonds and the carrying out of all of the covenants and agreements contained in such resolution authorizing such bonds.

All bonds so issued shall constitute negotiable instruments within the meaning of the Uniform Commercial Code of Mississippi.

Any bonds authorized under authority of this section may be validated in the chancery court of first judicial district, Hinds County in the manner and with the force and effect now or hereafter provided by general law for the validation of municipal bonds.

This section, without reference to any other statute or law of Mississippi other than the portions of Sections 37-101-91 through 37-101-103, not in conflict herewith, and Section 31-19-25, shall constitute full authority for the extension, adding to and improvement of the aforesaid stadium and the authorization and issuance of bonds hereunder and no other provisions of the statutes pertinent thereto, except as herein expressly provided, shall be construed as applying to any proceedings had hereunder or any acts done pursuant hereto.

SOURCES: Codes, 1942, § 6732.5; Laws, 1956, ch. 281, §§ 1-5.

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

Maximum interest rate on revenue bonds, see § 75-17-103.

§ 37-119-9. Authorization to borrow funds to establish certified registered nurse anesthetist education and training program.

The University of Southern Mississippi, with the approval of the Board of Trustees of State Institutions of Higher Learning, is hereby granted the legal authority to borrow funds for the purpose of establishing and operating a certified registered nurse anesthetist educational and training program within the university's existing School of Nursing on its Hattiesburg campus. The purposes for which the funds from the loan may be utilized shall include, but not be limited to, any and all start-up costs, operation costs, personnel costs, equipment and educational materials.

SOURCES: Laws, 2012, ch. 407, § 1, eff from and after passage (approved Apr. 18, 2012.)

§ 37-119-11. DuBard School for Language Disorders Fund created.

There is created in the State Treasury a special fund to be known as the DuBard School for Language Disorders Fund, which shall be administered by the Board of Trustees of State Institutions of Higher Learning. The purpose of the fund shall be to support the DuBard School for Language Disorders at the University of Southern Mississippi. Monies in the fund shall be expended by the board of trustees, upon appropriation by the Legislature. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

(a) Monies appropriated by the Legislature for the purposes of funding the DuBard School for Language Disorders;
(b) The interest accruing to the fund;
(c) Monies received under the provisions of Section 99-19-73;
(d) Monies received from the federal government;
(e) Donations; and
(f) Monies received from such other sources as may be provided by law.

SOURCES: Laws, 2012, ch. 554, § 4, eff from and after July 1, 2012.

Editor's Note — Laws of 2012, ch. 554, § 6 provides:

"SECTION 6. During fiscal year 2013, the following agencies shall have the authority to receive, budget and expend the following amounts generated from the assessments enacted in House Bill No. 878, 2012 Regular Session [Chapter 554, Laws of 2012]:

"University of Mississippi Medical Center for the Children's Justice Center	$750,000.00
"Board of Trustees of State Institutions of Higher Learning for the DuBard School for Language Disorders	$300,000.00
"Attorney General's office for the Children's Advocacy Centers of Mississippi	$650,000.00
"Attorney General's office for the Motorcycle Officers Training Program	$50,000.00

"The above listed escalations shall be done in accordance with the rules and regulations of the Department of Finance and Adminstration in a manner consistent with the escalation of federal funds."

CHAPTER 121

Alcorn State University

Sec.

37-121-1. Organization.
37-121-3. Applicability of laws dealing with the Mississippi State University of Agriculture and Applied Science.
37-121-5. Establishment of branch of agricultural and forestry experimental station.
37-121-7. New dining hall named Dr. Clinton Bristow, Jr., Dining Facility.
37-121-9. Marks Vegetable Processing Facility renamed the Clayton P. Henderson Vegetable Processing Facility.
37-121-11. Alcorn State University Baseball Park named the Willie E. "Rat" McGowan, Sr., Baseball Stadium.
37-121-13. Baseball field within the Willie E. "Rat" McGowan, Sr., Baseball Stadium named the William "Bill" Foster Baseball Field.
37-121-15. Mississippi Small Farm Development Center (MSFDC) at Alcorn State University renamed the Mississippi Small Farm and Agribusiness Center (MSFAC).
37-121-17. Basketball court within Davey L. Whitney Complex named the Shirley A. Walker Basketball Court.

§ 37-121-1. Organization.

The Alcorn Agricultural and Mechanical College of Mississippi, created by act approved February 28, 1878, shall continue as a body politic and corporate, and shall henceforth be known as "Alcorn State University," without interference with the rights, powers and prerogatives of said college which continue in all respects. Whenever the name "Alcorn Agricultural and Mechanical College" appears, the same is construed to denote "Alcorn State University."

SOURCES: Codes, 1880, § 776; 1892, § 28; 1906, § 29; Hemingway's 1917, § 3439; 1930, § 7195; 1942, § 6703; Laws, 1974, ch 367, § 3, eff from and after passage (approved March 15, 1974).

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Inclusion of state-supported universities in small business consortium, see § 57-10-157.

JUDICIAL DECISIONS

1. In general.

Secretary, treasurer and business manager of Alcorn A. & M. College is not a public officer within Const. 1890 § 175. McClure v. Whitney, 120 Miss. 350, 82 So. 259 (1919).

RESEARCH REFERENCES

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J.

263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-121-3. Applicability of laws dealing with the Mississippi State University of Agriculture and Applied Science.

All the provisions in Chapter 113 of this title, being sections applicable to the Mississippi State University of Agriculture and Applied Science, that can reasonably apply to Alcorn Agricultural and Mechanical College, shall apply to the college, except those sections on the subject of apportioning students among the several counties of the state and dormitory privileges for them and those sections on the subject of agricultural experimental stations.

SOURCES: Codes, 1880, § 776; 1892, §§ 29, 30; 1906, §§ 30, 31; Hemingway's 1917, §§ 3440, 3441; 1930, § 7196; 1942, § 6704.

Editor's Note — Section 37-121-1 provides that whenever the name "Alcorn Agricultural and Mechanical College" appears, the same is construed to denote "Alcorn State University".

Cross References — Duty of state to support Alcorn Agricultural and Mechanical College, see Miss. Const. Art. 8, § 213.

§ 37-121-5. Establishment of branch of agricultural and forestry experimental station.

The Mississippi agricultural and forestry experimental station is hereby authorized to establish a branch at Alcorn Agricultural and Mechanical College, Lorman, for the purpose of providing an organization for cooperative effort between the two land grant institutions in furthering a unified agricultural research program for the State of Mississippi.

SOURCES: Codes, 1942, § 6704.5; Laws, 1971, ch. 389, § 1, eff from and after passage (approved March 18, 1971).

Editor's Note — Section 37-121-1 provides that whenever the name "Alcorn Agricultural and Mechanical College" appears, the same is construed to denote "Alcorn State University".

Cross References — Establishment of agricultural and forestry experimental station, see § 37-113-17.

Establishment of branch agricultural experimental stations, see § 37-113-21.

§ 37-121-7. New dining hall named Dr. Clinton Bristow, Jr., Dining Facility.

The new dining hall, currently under construction on the campus of Alcorn State University, located in Lorman, Mississippi, shall be named the Dr. Clinton Bristow, Jr., Dining Facility. Alcorn State University shall prepare a distinctive plaque to be placed in a prominent place within the Dr. Clinton Bristow, Jr., Dining Facility, which states the background, accomplishments and service to the university of Dr. Bristow.

SOURCES: Laws, 2007, ch. 339, § 1, eff from and after passage (approved Mar. 14, 2007.)

§ 37-121-9. Marks Vegetable Processing Facility renamed the Clayton P. Henderson Vegetable Processing Facility.

The Marks Vegetable Processing Facility located at 1300 Killebrew Road in Marks, Mississippi, and operated by Alcorn State University, shall be named the Clayton P. Henderson Vegetable Processing Facility. Alcorn State University shall prepare a distinctive plaque to be placed in a prominent place within the Clayton P. Henderson Vegetable Processing Facility, which states the background, accomplishments and service to the state of the Honorable Clayton P. Henderson.

SOURCES: Laws, 2009, ch. 561, § 8, eff from and after passage (approved May 13, 2009.)

§ 37-121-11. Alcorn State University Baseball Park named the Willie E. "Rat" McGowan, Sr., Baseball Stadium.

The Alcorn State University Baseball Park on the campus of Alcorn State University in Lorman, Mississippi, shall be named the Willie E. "Rat" McGowan, Sr., Baseball Stadium. The Department of Finance and Administration shall prepare a distinctive plaque to be placed in a prominent place within the Willie E. "Rat" McGowan, Sr., Baseball Stadium, which states the background, accomplishments and service to the university of Mr. McGowan.

SOURCES: Laws, 2010, ch. 509, § 5, eff from and after passage (approved Apr. 13, 2010.)

§ 37-121-13. Baseball field within the Willie E. "Rat" McGowan, Sr., Baseball Stadium named the William "Bill" Foster Baseball Field.

The baseball field within the Willie E. "Rat" McGowan, Sr., Baseball Stadium, as designated in Section 37-121-11, located on the campus of Alcorn State University in Lorman, Mississippi, shall be named the William "Bill" Foster Baseball Field. The Department of Finance and Administration shall prepare a distinctive plaque to be placed in a prominent place on the William

"Bill" Foster Baseball Field, which states the background, accomplishments and service to the university of Mr. Foster.

SOURCES: Laws, 2010, ch. 509, § 6, eff from and after passage (approved Apr. 13, 2010.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a statutory reference in this section. The reference to "Section 1 of this act" was changed to "Section 37-121-11," which was enacted by Section 5 of Chapter 509, Laws of 2010. The Joint Committee ratified the correction at its July 13, 2011, meeting.

§ 37-121-15. Mississippi Small Farm Development Center (MSFDC) at Alcorn State University renamed the Mississippi Small Farm and Agribusiness Center (MSFAC).

The Mississippi Small Farm Development Center (MSFDC) on the campus of Alcorn State University in Lorman, Mississippi, shall be renamed the Mississippi Small Farm and Agribusiness Center (MSFAC).

SOURCES: Laws, 2013, ch. 481, § 2, eff from and after passage (approved April 1, 2013.)

§ 37-121-17. Basketball court within Davey L. Whitney Complex named the Shirley A. Walker Basketball Court.

The basketball court within the Davey L. Whitney Complex located on the campus of Alcorn State University in Lorman, Mississippi, shall be named the Shirley A. Walker Basketball Court. The Department of Finance and Administration is authorized to prepare a distinctive plaque to be placed in a prominent place within the Davey L. Whitney Complex, which states the background, accomplishments and service to the university of Mrs.Walker.

SOURCES: Laws, 2014, ch. 484, § 2, eff from and after July 1, 2014.

CHAPTER 123

Delta State University

Sec.
37-123-1. Organization.
37-123-3. Object.
37-123-5. Restrictions as to admission.

§ 37-123-1. Organization.

The body politic and corporate created by Chapter 284, Laws of Mississippi 1924, by the name of "Delta State Teachers' College" is continued to have perpetual succession with power to contract and be contracted with; to receive by any legal method of transfer or conveyance, property of any description, to have, hold and employ the same; to make and use a corporate seal, with power to change the same; to adopt bylaws, rules and regulations for the government of its members, official agents and employees. However, the name of said "Delta State Teachers' College" shall be hereafter changed to "Delta State University" without interference with the rights, powers and prerogatives of said college which shall continue in all respects.

Wherever the name "Delta State Teachers' College" or "Delta State College" appears, the same shall be construed to denote Delta State University.

SOURCES: Codes, 1930, § 7235; 1942, § 6733; Laws, 1924, ch. 284; Laws, 1955, Ex Sess, ch. 62; Laws, 1974, ch. 367, § 1, eff from and after passage (approved March 15, 1974).

Editor's Note — Laws of 2011, ch. 507, § 1, provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey parcels of certain state-owned real property and any improvements thereon under the possession and control of the Delta State University, located in the City of Cleveland, Bolivar County, Mississippi, . . ."

[For complete property descriptions see Laws of 2011, ch. 507, § 1.]

"(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers which shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

"(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

"(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of Delta State University."

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Duties of division directors of state board of education, see § 37-3-25.

Inclusion of state-supported universities in small business consortium, see § 57-10-157.

RESEARCH REFERENCES

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J. 263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-123-3. Object.

The principal object of the Delta State College shall be to qualify teachers for the public schools of this state, by imparting instruction in the art and practice of teaching in all branches of study which pertain to a common school education, and such other studies as the board of trustees of state institutions of higher learning may from time to time prescribe.

SOURCES: Codes, 1930, § 7240; 1942, § 6736.

Editor's Note — Section 37-123-1 provides that the name of "Delta State Teachers' College" shall be hereafter changed to "Delta State University".

Cross References — Object and purpose of University of Southern Mississippi, see § 37-119-3.

Restrictions on admission, see § 37-119-5.

§ 37-123-5. Restrictions as to admission.

No person shall be eligible to admission to the Delta State College, who shall not have completed the studies of course prescribed by law for the common or public schools of the state.

SOURCES: Codes, 1930, § 7240; 1942, § 6736.

Editor's Note — Section 37-123-1 changed the name of Delta State College to Delta State University.

CHAPTER 125

Jackson State University

Sec.

37-125-1.	Creation.
37-125-3.	Object.
37-125-5.	Location.
37-125-7.	Executive head.

§ 37-125-1. Creation.

A body politic and corporate is hereby created by the name of the "Jackson State College" to have perpetual succession, with power to contract and be contracted with, to receive by any legal method of transfer or conveyance, property of any description, to have, hold and employ the same, to make and use a corporate seal, with power to break or change the same, and to adopt bylaws, rules, and regulations for the government of its members, official agents, and employees. However, the name of said "Jackson State College" is hereafter changed to "Jackson State University," without interference with the rights, powers and prerogatives of said college which continue in all respects. Whenever the name "Jackson State College" appears, the same is construed to denote "Jackson State University."

SOURCES: Codes, 1942, §§ 6808, 6808-01; Laws, 1940, ch. 185; Laws, 1944, ch. 159, § 1; Laws, 1956, ch. 293; Laws, 1974, ch. 367, § 4, eff from and after passage (approved March 15, 1974).

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Peace officers employed by Jackson State University may be vested with powers of constable for purpose of preventing violations of law that occur within 500 feet of university property, see § 37-105-3.

Mississippi Veterans memorial Stadium to be home stadium of Jackson State University, see § 55-23-6.

Inclusion of state-supported universities in small business consortium, see § 57-10-157.

Mississippi Urban Research Center, see § 57-55-17.

JUDICIAL DECISIONS

1. Sovereign immunity.

Former state university student's 42 U.S.C.S. §§ 1981, 1983 race discrimination claims against the university, a state board of trustees, and several professors were barred under the U.S. Const. Amend. XI doctrine of sovereign immunity; both the university and the board were arms of the State of Mississippi where the board was created pursuant to Miss. Const. Art. 8, § 213A, the Mississippi Legislature granted further authority to the board via Miss. Code Ann. § 37-101-1, and the university was a public university created by statute and placed under the auspices of the board via Miss. Code Ann. §§ 37-125-1 et seq. and 37-101-1. Washington v. Jackson State Univ., 532 F. Supp. 2d 804 (S.D.

Miss. Mar. 15, 2006), appeal dismissed by 244 Fed. Appx. 589, 2007 U.S. App. LEXIS 18811 (5th Cir. Miss. 2007).

RESEARCH REFERENCES

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J. 263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-125-3. Object.

The object of the Jackson State College shall be to qualify teachers for the public schools of this state by giving instruction in the art and practice of teaching in all branches of study which pertain to industrial training, health, and rural and elementary education, and such other studies as the board of trustees of state institutions of higher learning, in cooperation with the state department of education, may, from time to time, prescribe.

SOURCES: Codes, 1942, § 6809; Laws, 1940, ch. 185.

Editor's Note — Section 37-125-1 provides that whenever the name "Jackson State College" appears, the same is construed to denote "Jackson State University".

§ 37-125-5. Location.

The Jackson State College shall be located on the property situated near the city of Jackson, Hinds County, Mississippi, and containing forty-nine acres more or less north of the Y. & M. V. railroad, west of Dalton street, section 9, township 6, range 1, east, and otherwise known as Jackson College.

SOURCES: Codes, 1942, § 6811; Laws, 1940, ch. 185.

Editor's Note — Section 37-125-1 provides that whenever the name "Jackson State College" appears, the same is construed to denote "Jackson State University".

§ 37-125-7. Executive head.

The executive head of the Jackson State College shall be held as the professional adviser of the board of trustees of state institutions of higher learning on all matters pertaining to the inside arrangements of buildings, selection of faculty, and course of study. He shall have the immediate supervision and management of said college in all its departments, subject however, to the general supervision, management, and direction of the board of trustees of state institutions of higher learning.

SOURCES: Codes, 1942, § 6813; Laws, 1940, ch. 185.

Editor's Note — Section 37-125-1 provides that whenever the name "Jackson State College" appears, the same is construed to denote "Jackson State University".

CHAPTER 127

Mississippi Valley State University

Sec.
37-127-1. Creation.
37-127-3. Object.
37-127-5. Location.
37-127-7. President.

§ 37-127-1. Creation.

A body politic and corporate is hereby created by the name of the "Mississippi Valley State College" to have perpetual succession, with power to contract and be contracted with, to receive by any legal method of transfer or conveyance, property of any description, to have, hold, and employ the same, to make and use a corporate seal, with power to break or change the same, and to adopt bylaws, rules and regulations for the government of its members, official agents, and employees. However, the name of said "Mississippi Valley State College" is hereafter changed to "Mississippi Valley State University," without interference with the rights, powers and prerogatives of said college which continue in all respects. Whenever the name "Mississippi Valley State College" appears, the same is construed to denote "Mississippi Valley State University."

SOURCES: Codes, 1942, § 6814-01; Laws, 1946, ch. 327, § 1; Laws, 1964, ch. 416; Laws, 1974, ch. 367, § 5, eff from and after passage (approved March 15, 1974).

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 4 et seq.

CJS. 14 C.J.S., Colleges and Universities §§ 1-3, 42.

Law Reviews. Adams, Through the looking glass and what the Supreme Court finds there: the political setting of United States v. Fordice. 62 Miss. L. J. 263, Winter, 1993.

Connell, The road to United States v. Fordice: what is the duty of public colleges and universities in former de jure states to desegregate? 62 Miss. L. J. 285, Winter, 1993.

Dunaway and Mills, United States v. Fordice: A summary of the parties' arguments. 62 Miss. L. J. 361, Winter, 1993.

Davis, The quest for equal education in Mississippi: the implications of United States v. Fordice. 62 Miss. L. J. 405, Winter, 1993.

§ 37-127-3. Object.

The object of the Mississippi Valley State College shall be to train teachers for teaching in the public schools of this state by giving instruction in the art and practice of teaching in the elementary and high school grades and in all branches of study which pertain to industrial training, health, and rural and elementary education, and to provide instruction and training in such other subjects as the board of trustees of state institutions of higher learning, in cooperation with the state department of education, may, from time to time, prescribe. It shall also be the object of said college to establish and conduct schools, classes or courses, for preparing, equipping and training citizens of the State of Mississippi for employment in gainful occupations, in trade, industrial and distributive pursuits whether such students are qualified by educational requirements or not.

SOURCES: Codes, 1942, § 6814-02; Laws, 1946, ch. 327, § 2.

Editor's Note — Section 37-127-1 provides that whenever the name "Mississippi Valley State College" appears, the same is construed to denote "Mississippi Valley State University".

§ 37-127-5. Location.

The Mississippi Valley State College shall be located at some appropriate place in the delta section of the state, to be determined by the board of trustees of state institutions of higher learning.

SOURCES: Codes, 1942, § 6814-04; Laws, 1946, ch. 327, § 4.

Editor's Note — Section 37-127-1 provides that whenever the name "Mississippi Valley State College" appears, the same is construed to denote "Mississippi Valley State University".

§ 37-127-7. President.

The president of the Mississippi Valley State College shall be held as the professional adviser of the board of trustees of state institutions of higher learning of all matters pertaining to the inside arrangements of buildings, selection of faculty, and course of study. He shall have the immediate supervision and management of said college in all its departments, subject however, to the general supervision, management, and direction of the board of trustees of state institutions of higher learning.

SOURCES: Codes, 1942, § 6814-06; Laws, 1946, ch. 327, § 6.

Editor's Note — Section 37-127-1 provides that whenever the name "Mississippi Valley State College" appears, the same is construed to denote "Mississippi Valley State University".

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1.

CHAPTER 129

Nursing Schools and Scholarships

SEC.
37-129-1. Regulation of nursing schools and programs.
37-129-3. School of nursing established in University of Mississippi unaffected by §§ 37-129-1 and 37-129-3.
37-129-5 through 37-129-13. Repealed.

§ 37-129-1. Regulation of nursing schools and programs.

In addition to all other powers and duties now vested by law in the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, said board is hereby empowered and required to:

(a) Establish by rules and regulations and promulgate uniform standards for accreditation of schools of nursing in the State of Mississippi (i) insofar as concerns the eligibility of graduates of such schools to take the examination prescribed by law to become registered nurses authorized to practice the profession of nursing as registered nurses in Mississippi, and (ii) insofar as concerns student nurses attending such schools being eligible to participate in any student nurse scholarship program or other program of assistance now existing or hereafter established by legislative enactment;

(b) Issue to such schools of nursing upon an annual basis certificates of accreditation as may be proper under such standards;

(c) Administer any scholarship program or other program of assistance heretofore or hereafter established by legislative enactment for the benefit of students attending accredited schools of nursing in this state;

(d) Administer any other funds available or which may be made available for the promotion of nursing education in the state, with the exception of nursing faculty supplement funds to the public junior colleges, which funds shall be appropriated to and administered by the Division of Junior Colleges of the State Department of Education;

(e) Adopt rules and regulations to provide that a nurse in training may, during the two-year period in an approved hospital, be allowed to transfer at any time with full credit after six (6) months in training, to any other hospital of her choice at which there is a vacancy; suitable provision shall be made to protect her against coercion or intimidation concerning such a contemplated transfer.

In addition to other powers now vested by law in the Board of Trustees of State Institutions of Higher Learning, said board is hereby empowered to establish and maintain a nurse-midwifery education program that meets the accreditation standards of the American College of Nurse-Midwives at a state institution of higher learning under the jurisdiction of the board of trustees.

In order to implement paragraph (d) above, the Board of Trustees of State Institutions of Higher Learning is hereby authorized and directed to arrange and contract with hospitals, senior colleges and hospital schools of nursing for the financial support of programs of nursing education. The said board is further authorized to adopt such terms for contracts, and such rules and regulations for reimbursing contracting agencies for costs of instruction in schools of nursing as may be feasible in accordance with appropriations made by the Legislature for this purpose. However, no reimbursement may be made to contracting agencies in excess of the actual cost of instruction in the schools of nursing.

In addition to the powers now vested by law in the Board of Trustees of State Institutions of Higher Learning and subject to the availability of funds specifically appropriated therefor, said board is hereby empowered and directed to conduct a one-year feasibility study and comprehensive plan for nursing schools in Mississippi which addresses the concept of shared utilization of clinical simulation laboratories for all Mississippi schools of nursing in order to provide computerized interactive learning capabilities for all schools, utilizing the pooled resources or mobile capability models from other states. The completed plan shall be developed and a report made to the 2009 Regular Session on or before December 1, 2008.

No provision of this section shall be construed to authorize any department, agency, officer or employee of the State of Mississippi to exercise any controls over the admissions policy of any private educational institution offering a baccalaureate degree in nursing.

SOURCES: Codes, 1942, § 6726.9; Laws, 1954, ch. 280, §§ 1-4; Laws, 1960, ch. 312; Laws, 1979, ch. 337, § 1; Laws, 1980, ch. 549; Laws, 1985, ch. 378; Laws, 2008, ch. 320, § 1, eff from and after July 1, 2008.

Cross References — Exception of nursing education programs from authority of director of division of vocational and technical education, see § 37-3-25.

Exception of nursing education programs from authority of Mississippi Board of Vocational and Technical Education, see § 37-31-205.

Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Medicaid payments for services of nurse-midwives, see § 43-13-117.

Mississippi Nursing Practice Law, see §§ 73-15-1 et seq.

RESEARCH REFERENCES

ALR. Midwifery: state regulation. 59 A.L.R.4th 929.

§ 37-129-3. School of nursing established in University of Mississippi unaffected by §§ 37-129-1 and 37-129-3.

No provision of this section and Section 37-129-1 shall apply to or in any wise affect the school of nursing heretofore established in the University of Mississippi pursuant to Section 37-115-51, and no provision of this section and Section 37-129-1 shall apply to or affect the scholarship program for advanced study in nursing established under Sections 37-129-5 through 37-129-13.

SOURCES: Codes, 1942, § 6726.9; Laws, 1954, ch. 280, §§ 1-4; Laws, 1960, ch. 312, eff July 1, 1960.

Editor's Note — Sections 37-129-5 through 37-129-13 referred to in this section were repealed by Laws of 1991, ch. 547, § 16, eff from and after July 1, 1991. For current provisions, see § 37-143-9.

§§ 37-129-5 through 37-129-13. Repealed.

Repealed by Laws, 1991, ch. 547, § 16, eff from and after July 1, 1991.

§ 37-129-5. [Codes, 1942, § 6708-22; Laws, 1948, ch. 288, §§ 1-7; Laws, 1952, ch. 267; Laws, 1956, ch. 298]

§ 37-129-7. [Codes, 1942, § 6708-22; Laws, 1948, ch. 288, §§ 1-7; Laws, 1952, ch. 267; Laws, 1956, ch. 298]

§ 37-129-9. [Codes, 1942, § 6708-22; Laws, 1948, ch. 288, §§ 1-7; Laws, 1952, ch. 267; Laws, 1956, ch. 298]

§ 37-129-11. [Codes, 1942, § 6708-22; Laws, 1948, ch. 288, §§ 1-7; Laws, 1952, ch. 267; Laws, 1956, ch. 298]

§ 37-129-13. [Codes, 1942, § 6708-22; Laws, 1948, ch. 288, §§ 1-7; Laws, 1952, ch. 267; Laws, 1956, ch. 298]

Editor's Note — Former § 37-129-5 provided for the legislature's declaration and establishment of a scholarship program of education in nursing. For current provisions pertaining to funds for advanced study in nursing, see § 37-143-9.

Former § 37-129-7 provided for the number, value and allocation of scholarships. For current provisions pertaining to funds for advanced study in nursing, see § 37-143-9.

Former § 37-129-9 provided for the form and contents of contracts with recipients of scholarships. For current provisions pertaining to funds for advanced study in nursing, see § 37-143-9.

Former § 37-129-11 provided for the purpose, terms and conditions of scholarships, as well as aid to student nurses. For current provisions pertaining to funds for advanced study in nursing, see § 37-143-9.

Former § 37-129-13 provided for the approval of positions for students after completion of work and under scholarship. For current provisions pertaining to funds for advanced study in nursing, see § 37-143-9.

Laws, 1991, ch. 547, § 18, provides:

"SECTION 18. The Board of Trustees os State Institutions of Higher Learning is hereby authorized to honor all contracts and commitments for the provision of loans or scholarships existing under prior programs repealed by this act."

CHAPTER 131

Teachers Demonstration and Practice Schools

Sec.
37-131-1. Authority to establish, maintain and conduct schools.
37-131-3. Contracts for attendance of pupils and grades.
37-131-5. Allotment of transportation fund.
37-131-7. Allocation of minimum education program and state public school building funds.
37-131-9. Payment of additional funds; fees and tuition.
37-131-11. Reports.
37-131-13. Acceptance of gifts.
37-131-15. Demonstration or practice school in Oktibbeha County.

§ 37-131-1. Authority to establish, maintain and conduct schools.

The president or executive head of any state-supported institution of higher learning of the State of Mississippi, subject to the approval of the board of trustees of state institutions of higher learning, is hereby authorized and empowered to establish, operate, maintain, and conduct teachers demonstration and practice schools in connection with the operation of such institution of higher learning. The president or executive head of any such institution, subject to the approval of the board of trustees of state institutions of higher learning, shall have full power and authority to regulate and conduct the affairs of such schools and to establish rules and regulations for their government.

SOURCES: Codes, 1942, § 6737-01; Laws, 1954, ch. 270, § 1, eff from and after July 1, 1954.

§ 37-131-3. Contracts for attendance of pupils and grades.

The president or executive head of any institution of higher learning which has established a demonstration or practice school, subject to the approval of the board of trustees of state institutions of higher learning, shall have the power and authority to enter into contracts and agreements with the board of trustees of any school district providing for the attendance of pupils, or one or more, or parts of, grades, from the educable children of such school district at such demonstration or practice school. The board of trustees of any school district is hereby authorized and empowered to enter into contracts and agreements with the president or executive head of an institution of higher learning for such purpose. All such contracts shall be upon such terms and conditions as may be agreed upon by and between the president or executive head of the institution of higher learning and the board of trustees of the school district involved.

SOURCES: Codes, 1942, § 6737-02; Laws, 1954, ch. 270, § 2, eff from and after July 1, 1954.

§ 37-131-5. Allotment of transportation fund.

When any educable children of any school district are attending a demonstration or practice school under a contract, as authorized by Section 37-131-3, who would otherwise be entitled to transportation at public expense under any applicable statute, such children shall remain entitled to such transportation and shall be reported for the allotment of transportation funds by the county or municipal separate school district in which they reside and, when so reported, transportation funds shall be allotted to the county or municipal separate school district therefor just as though such pupil were attending a regular school of the county or municipal separate school district, and transportation therefor shall be furnished by the county board of education or board of trustees of the municipal separate school district, as the case may be, as is otherwise provided by law.

SOURCES: Codes, 1942, § 6737-03; Laws, 1954, ch. 270, § 3, eff from and after July 1, 1954.

Cross References — Transportation of pupils generally, see §§ 37-41-1 et seq.

§ 37-131-7. Allocation of minimum education program and state public school building funds.

When any pupils shall attend any demonstration or practice school under the provisions of Section 37-131-3, such children shall be reported and accounted for the allocation of minimum education program funds and state public school building funds just as though such children were attending the regular schools of the district in which they reside. For this purpose, reports shall be made to the school district involved by the demonstration or practice school of the number of pupils in average daily attendance, and the average daily attendance of such children shall thereupon be included in reports made to the state board of education and the state educational finance commission by the county or school district under the provisions of Chapters 19 and 47 of this title.

Allocation of minimum education program funds shall be made by the state board of education for such children just as though such children were attending the regular schools of the district. All minimum education program funds, except funds allocated for transportation costs, which accrue to any district as a result of such children who are in attendance at a demonstration or practice school shall be paid by the board of trustees of the municipal separate school district or by the county board of education to the demonstration or practice school, and shall be used to defray the cost and expense of maintaining, operating and conducting such demonstration or practice school.

All state public school building funds which accrue as a result of such children in attendance at a demonstration or practice school shall be credited directly to such demonstration or practice school, and all of the provisions of Chapter 47 of this title shall be fully applicable thereto.

SOURCES: Codes, 1942, § 6737-04; Laws, 1954, ch. 270, § 4, eff from and after July 1, 1954.

Editor's Note — Section 37-45-1 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education. Section 37-45-3 further provides that all references in laws, of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

Cross References — State aid for construction of school facilities, see §§ 37-47-1 et seq.

§ 37-131-9. Payment of additional funds; fees and tuition.

In addition to the amounts paid to the demonstration or practice school from minimum education program funds, as provided in Section 37-131-7, the board of trustees of the school district involved may contract with the said demonstration or practice school for the payment of additional amounts thereto to defray expenses over and above those defrayed by minimum education program funds, which additional amounts shall be paid from any funds available to the school district other than minimum education program funds, whether produced by a supplemental district tax levy or otherwise.

If the total funds paid to the demonstration or practice school by the school district are inadequate to defray the cost and expense of maintaining and operating such demonstration or practice school then the president or executive head of the institution may, subject to the approval of the board of trustees of state institutions of higher learning, require the payment of additional fees or tuition in an amount to be fixed by the president or executive head of the institution, subject to the approval of the board of trustees of state institutions of higher learning, which amount shall be paid by and collected from the student or his parents.

Boards of trustees of school districts involved may designate an area within the jurisdiction of the board as an attendance center as provided by law, and may require students in such area to attend demonstration or practice schools, subject to a satisfactory contract between the school board and the president or executive head of the institution operating the demonstration or practice school. In such event, all fees and tuition must be borne by the school district and in no case shall the child or the parents of the child assigned to such demonstration or practice school be required to pay any fees or tuition.

The president or executive head of the institution, subject to the approval of the board of trustees of state institutions of higher learning, may also fix the amount of fees and tuition to be paid by students desiring to attend such demonstration or practice school in cases where there is no contract with the board of trustees of the school district in which the students reside therefor.

All funds received by an institution, under the provisions of this section, shall be deposited in a special fund and shall be used and expended solely for the purpose of defraying and paying the cost and expense of operating, maintaining and conducting such teachers demonstration and practice school.

Such funds may be supplemented by and used in connection with any other funds available to the institutions for such purpose whether made available by legislative appropriation or otherwise.

SOURCES: Codes, 1942, § 6737-06; Laws, 1954, ch. 270, § 6; Laws, 1958, ch. 315.

§ 37-131-11. Reports.

All demonstration or practice schools established under the provisions of Section 37-131-1 shall, as far as may be practicable, be subject to and governed by the same laws as other public schools of the State of Mississippi, and shall make all reports required by law to be made by public schools to the state board of education or the state educational finance commission at the same time and in the same manner as such reports are made by other public schools. However, for the purpose of the allocation of minimum education program funds, the reports of children in average daily attendance shall be made to the school district involved by said demonstration or practice school, and a copy thereof shall be filed with the state board of education. The school district shall use said reports so filed with it in making its reports to the state board of education for the purpose of the allocation of minimum education program funds but the average daily attendance of the pupils attending such demonstration or practice school shall be segregated and separated in such reports from the average daily attendance in the regular schools of the district.

SOURCES: Codes, 1942, § 6737-05; Laws, 1954, ch. 270, § 5, eff from and after July 1, 1954.

Editor's Note — Section 37-45-1 provides that the State Educational Finance Commission shall be abolished and functions and duties transferred to the State Board of Education. Section 37-45-3 further provides that all references in laws, of the state to "State Educational Finance Commission" or "commission", when referring to the Educational Finance Commission, shall be construed to mean the State Board of Education.

§ 37-131-13. Acceptance of gifts.

In order to carry into effect the right and authority granted in Sections 37-131-1 through 37-131-11, authorizing demonstration and practice schools in connection with major state institutions of higher learning, the board of trustees of state institutions of higher learning is hereby authorized to accept by donations, grants, cooperative agreements or otherwise, such sums of money as may be deemed necessary for the construction and maintenance of such demonstration and practice schools from whatever sources available, including agencies of the federal, state and county governments, the city of Starkville, Mississippi, private individuals, benevolent institutions or organizations, or any other available and legal source or sources.

SOURCES: Codes, 1942, § 6743; Laws, 1942, ch. 169.

§ 37-131-15. Demonstration or practice school in Oktibbeha County.

Oktibbeha County, Mississippi, the Starkville municipal separate school district, and any one or more of the consolidated or separate school districts in Oktibbeha County, Mississippi, are hereby authorized to cooperate with the board of trustees of state institutions of higher learning by establishing, constructing, maintaining and operating a teachers demonstration or practice school.

The board of trustees of state institutions of higher learning is hereby authorized to act as sponsor with respect to any funds that may be secured for the construction, maintenance, and operation of such teachers demonstration or practice school from any agency or subdivision of the federal, state, Oktibbeha County, City of Starkville, or school district, or from private individuals, benevolent institutions or organizations, or any other available and legal source or sources.

SOURCES: Codes, 1942, § 6743; Laws, 1942, ch. 169.

CHAPTER 132

Student Teachers

SEC.
37-132-1. Definitions.
37-132-3. Responsibility of cooperating teacher.
37-132-5. Powers and duties of student teacher.

§ 37-132-1. Definitions.

As used in this chapter, "student teacher" or "intern" shall mean a student enrolled in an institution of higher learning approved by the state board of education for teacher training and who is jointly assigned by such institution of higher learning and a board of education to student-teach or intern under the direction of a regularly employed certificated teacher, principal, or other administrator. Whenever in this chapter "board of education" is referred to and the school that a student teacher or intern is assigned to does not have a board of education, such term shall refer to the person or governing body that administers such school.

SOURCES: Laws, 1973, ch. 343, § 1(a), eff from and after passage (approved March 22, 1973).

Cross References — Beginning teacher support program, see §§ 37-9-201 et seq.

§ 37-132-3. Responsibility of cooperating teacher.

It shall be the responsibility of a cooperating teacher, in conjunction with the principal or other administrator and the representative of the teacher preparation institution, to assign to the student teacher or intern responsibilities and duties that will provide adequate preparation for teaching. Student teaching may include duties granted to a certificated teacher under the rules and regulations of such board of education and any other part of the school program for which either the cooperating teacher or the principal is responsible.

SOURCES: Laws, 1973, ch. 343, § 1(b), eff from and after passage (approved March 22, 1973).

Cross References — Beginning teacher support program, see §§ 37-9-201 et seq.

§ 37-132-5. Powers and duties of student teacher.

A student teacher or intern under the supervision of a certificated teacher, principal, or other administrator shall have the protection of the laws accorded the certificated teacher, principal, or other administrator, and shall, while acting as such student teacher or intern, comply with all rules and regulations of the local board of education and observe all duties assigned certificated teachers.

SOURCES: Laws, 1973, ch. 343, § 1(c), eff from and after passage (approved March 22, 1973).

Cross References — Beginning teacher support program, see §§ 37-9-201 et seq.

CHAPTER 133

Technical Institutes

Sec.
37-133-1. Short title.
37-133-3. Declaration of public policy.
37-133-5. Establishment of technical institutes.
37-133-7. Technical institute fund created; gifts.
37-133-9. Fiscal reports; compliance with budget and accounting laws.

§ 37-133-1. Short title.

This chapter may be cited as the "Mississippi Technical Institute Law of 1964."

SOURCES: Codes, 1942, § 6726-21; Laws, 1964, ch. 415, § 1, eff from and after passage (approved June 11, 1964).

§ 37-133-3. Declaration of public policy.

It is hereby declared that the state public welfare demands and the state public policy requires:

(a) That some program be immediately initiated to rectify the presently existing critical condition of lack of a resident labor force within the State of Mississippi capable of holding positions requiring particular skills in the technical, scientific and engineering fields demanded by heavy and aero-space industry and installations;

(b) That the present and prospective health, safety, morals, pursuit of happiness, right of gainful employment, and general welfare of the citizens of the State of Mississippi demand, as a public purpose, the immediate correction of the deficient and incomplete training programs and facilities by the state institutions of higher learning to quickly increase and thereafter maintain an adequate source of skilled engineering technicians demanded by heavy and aero-space industry and installations;

(c) That the means and measures authorized in the Mississippi Technical Institute Law of 1964 to promote engineering, commercial, industrial, agricultural, manufacturing and aero-space enterprises and installations, are, as a matter of public policy, for the public purposes of increasing the gainful employment, business activity, and for the proper development of the State of Mississippi; and

(d) That the accomplishment of the things herein authorized will stimulate and provide ready and attractive employment for skilled engineering technician residents of the State of Mississippi through the proper increase of the skilled engineering technician labor force available, which will further develop the engineering, agricultural, commercial, industrial and other resources of the State of Mississippi for the general welfare.

SOURCES: Codes, 1942, § 6726-22; Laws, 1964, ch. 415, § 2, eff from and after passage (approved June 11, 1964).

§ 37-133-5. Establishment of technical institutes.

In addition to all other powers and duties now vested by law in the board of trustees of state institutions of higher learning of the State of Mississippi, said board is hereby empowered and required to permit the establishment of technical institutes, as branches within the framework of the existing state institutions of higher learning, that have an ongoing program in the areas concerned, adequately staffed and equipped to offer a curriculum designed and intended to immediately initiate training (extending beyond the junior college level) in the field of vocational, scientific, engineering, technical, and aero-space education and the necessary supporting studies, so that the demands of heavy and aero-space industry and installations for skilled engineering technicians may be satisfied and maintained. The board shall require the curriculum of any technical institute established under the provisions of the Mississippi Technical Institute Law of 1964 to be complementary and supplementary to public junior college curriculums so that the full advantage of the educational resources of the State of Mississippi may be realized. The board shall permit the establishment of such technical institutes anywhere within the State of Mississippi, in the areas of most urgent need, on any land or facility presently, or hereafter, under the jurisdiction and control of the board and on such terms and conditions as shall seem appropriate. The state building commission shall, at its discretion, provide new buildings, facilities, and necessary repairs, renovations and remodeling of any facility designated by the board as a technical institute from funds made available for such purposes.

SOURCES: Codes, 1942, § 6726-23; Laws, 1964, ch. 415, § 3, eff from and after passage (approved June 11, 1964).

Editor's Note — Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the governor's office of general services.

Cross References — Eye protective devices required during participation in certain vocational, industrial arts, and chemical-physical courses of instruction, see § 37-11-49.

Universities research institutes generally, see §§ 57-55-1 et seq.
Mississippi Law Research Institute, see § 57-55-5.
Water resources research institute, see § 57-55-7.
Mississippi Mineral Resources Institute, see § 57-55-9.
Small business development center, see § 57-55-11.
Mississippi Polymer Institute, see § 57-55-13.
Mississippi Energy Research Center, see § 57-55-15.
Mississippi Urban Research Center, see § 57-55-17.

§ 37-133-7. Technical institute fund created; gifts.

There is hereby created in the state treasury a special fund to be known as the "technical institute fund." All sums of money received by the board of trustees of state institutions of higher learning to carry out the provisions of the Mississippi Technical Institute Law of 1964 shall be maintained in said special fund. All expenditures therefrom shall be for the purposes of carrying out the intents and purposes of said law, including the payment of salaries for qualified instructors as well as the equipping and staffing of the institute. Such expenditures shall be paid therefrom by the state treasurer on warrant of the auditor of public accounts. Said auditor shall issue his warrant upon requisition signed by the proper person, officer or officers, as authorized by law. The board is authorized to accept gifts, bequests of money, or other property, real or personal, to be used for the purpose of establishing or maintaining any technical institute which may be authorized under the provisions of said law and in accordance with the law of the State of Mississippi.

SOURCES: Codes, 1942, § 6726-23; Laws, 1964, ch. 415, § 3, eff from and after passage (approved June 11, 1964).

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Cross References — Universities Research Institutes, see §§ 57-55-1 et seq.

§ 37-133-9. Fiscal reports; compliance with budget and accounting laws.

It shall be the duty of the board of trustees of state institutions of higher learning to make periodic fiscal reports to the state fiscal management board and the legislative budget office, and to otherwise comply with the budget and accounting laws of the state of Mississippi.

SOURCES: Codes, 1942, § 6726-23; Laws, 1964, ch. 415, § 3; Laws, 1984, ch. 488, § 204, eff from and after July 1, 1984.

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Cross References — Joint legislative budget committee and legislative budget office, generally, see §§ 27-103-101 et seq.

CHAPTER 135

Compacts with Other States

In General 37-135-1
Compact for Education 37-135-11
Interstate Compact on Educational Opportunity for Military Children 37-135-31

IN GENERAL

Sec.
37-135-1. Compact for the operation of regional educational institutions in the southern states.
37-135-3. Approval of Delaware and West Virginia for admission into compact.

§ 37-135-1. Compact for the operation of regional educational institutions in the southern states.

The following compact of the southern states for the purpose of operating regional educational institutions in the southern states be, and the same is, hereby ratified and approved:

Whereas, the states who are parties hereto have during the past several years conducted careful investigation looking toward the establishment and maintenance of jointly owned and operated regional educational institutions in the southern states in the professional, technological, scientific, literary and other fields, so as to provide greater educational advantages and facilities for the citizens of the several states who reside within such region, and

Whereas, Meharry Medical College of Nashville, Tennessee, has proposed that its lands, buildings, equipment, and the net income from its endowment be turned over to the southern states, or to an agency acting in their behalf, to be operated as a regional institution for medical, dental and nursing education upon terms and conditions to be hereafter agreed upon between the southern states and Meharry Medical College, which proposal, because of the present financial condition of the institution, has been approved by the said states who are parties, hereto, and

Whereas, the said states desire to enter into a compact with each other providing for the planning and establishment of regional educational facilities;

Now therefore, in consideration of the mutual agreements, covenants and obligations assumed by the respective states who are parties hereto (hereinafter referred to as "states"), the said several states do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting states which, for the purposes of this compact, shall constitute an area for regional education supported by public funds derived from taxation by the constituent states for the establishment, acquisition, operation and maintenance of regional educational schools and institutions for the benefit of citizens of the respective states residing within the region so established as may be determined from time to time in accordance with the terms and provisions of this compact.

(a) The states do further hereby establish and create a joint agency which shall be known as the Board of Control for Southern Regional Education (hereinafter referred to as the "board"), the members of which board shall consist of the governor of each state, ex officio, and four (4) additional citizens of each state to be appointed by the governor thereof, at least one (1) of whom shall be selected from the field of education, and at least one (1) of whom shall be a member of the legislature of that state. In making his appointments, the governor shall appoint persons as broadly representative as possible of the variety of higher education at institutions in the state. The governor shall continue as a member of the board during his tenure of office as governor of the state but the members of the board appointed by the governor shall hold office for a period of four (4) years, except that in the original appointment one (1) board member so appointed by the governor shall be designated at the time of his appointment to serve an initial term of three (3) years, but thereafter his successor shall serve the full term of four (4) years. Vacancies on the board caused by death, resignation, refusal or inability to serve, shall be filled by appointment by the governor for the unexpired portion of the term. The officers of the board shall be a chairman, a vice chairman, a secretary, a treasurer and such additional officers as may be created by the board from time to time.

(b) It shall be the duty of the board to submit plans and recommendations to the states from time to time for their approval and adoption by appropriate legislative action for the development, establishment, acquisition, operation and maintenance of educational schools and institutions within the geographical limits of the regional area of the states, of such character and type and for such educational purposes, professional, technological, scientific, literary or otherwise, as they may deem and determine to be proper, necessary or advisable. Title to all such educational institutions when so established by appropriate legislative actions of the states and to all properties and facilities used in connection therewith shall be vested in said board as the agency of and for the use and benefit of the said states and the citizens thereof, and all such educational institutions shall be operated, maintained and financed in the manner herein set out, subject to any provisions or limitations which may be contained in the legislative acts of the states authorizing the creation, establishment and operation of such educational institutions.

(c) In addition to the power and authority heretofore granted, the board shall have the power to enter into such agreements or arrangements with any of the states and with educational institutions or agencies, as may be required in the judgment of the board, to provide adequate services and facilities for the graduate, professional, and technical education for the benefit of the citizens of the respective states residing within the region.

(d) The board shall have such additional and general power and authority as may be vested in it by the states from time to time by legislative enactments of the said states.

(e) Any two (2) or more states who are parties of this compact shall have the right to enter into supplemental agreements providing for the establishment, financing and operation of regional educational institutions for the benefit of citizens residing within an area which constitutes a portion of the general region herein created, such institutions to be financed exclusively by such states and to be controlled exclusively by the members of the board representing such states, provided such agreement is submitted to and approved by the board prior to the establishment of such institutions.

Each state agrees that, when authorized by the legislature, it will from time to time make available and pay over to said board such funds as may be required for the establishment, acquisition, operation and maintenance of such regional educational institutions as may be authorized by the states under the terms of this compact, the contribution of each state at all times to be in the proportion that its population bears to the total combined population of the states who are parties hereto as shown from time to time by the most recent official published report of the bureau of census of the United States of America or upon such other basis as may be agreed upon.

(f) This compact shall not take effect or be binding upon any state unless and until it shall be approved by proper legislative action of as many as six (6) or more of the states whose governors have subscribed hereto within a period of eighteen (18) months from the date hereof. When and if six (6) or more states shall have given legislative approval to this compact within said eighteen (18) months period, it shall be and become binding upon such six (6) or more states sixty (60) days after the date of legislative approval by the sixth state and the governors of such six (6) or more states shall forthwith name the members of the board from their states as hereinabove set out, and the board shall then meet on call of the governor of any state approving this compact, at which time the board shall elect officers, adopt bylaws, appoint committees and otherwise fully organize. Other states whose names are subscribed hereto shall thereafter become parties hereto upon approval of this compact by legislative action within two (2) years from the date hereof, upon such conditions as may be agreed upon at the time.

(g) After becoming effective this compact shall thereafter continue without limitation of time, provided, however, that it may be terminated at any time by unanimous action of the states and provided, further, that any state may withdraw from this compact if such withdrawal is approved by its legislature, such withdrawal to become effective two (2) years after written notice thereof to the board accompanied by a certified copy of the requisite legislative action, but such withdrawal shall not relieve the withdrawing state from its obligations hereunder accruing up to the effective date of such withdrawal. Any state so withdrawing shall ipso facto cease to have any claim to or ownership of any of the property held or vested in the board or to any of the funds of the board held under the terms of this compact.

If any state shall at any time become in default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon said state as authorized by and in compliance with the terms and provisions of this compact, all rights, privileges and benefits of such defaulting state, its members on the board and its citizens shall ipso facto be and become suspended from and after the date of such default. Unless such default shall be remedied and made good within a period of one (1) year immediately following the date of such default this compact may be terminated with respect to such defaulting state by an affirmative vote of three-fourths (3/4) of the members of the board (exclusive of the members representing the state in default), from and after which time such state shall cease to be a party to this compact and shall have no further claim to or ownership of any of the property held by or vested in the board or to any of the funds of the board held under the terms of this compact, but such termination shall in no manner release such defaulting state from any accrued obligation or otherwise affect this compact or the rights, duties, privileges or obligations of the remaining states thereunder.

(h) In witness whereof this compact has been approved and signed by the governors of the several states, subject to the approval of their respective legislatures in the manner hereinabove set out, as of the ______ day of ______, 1948.

State of Florida,
By ____________________
Governor
State of Maryland,
By ____________________
Governor
State of Georgia,
By ____________________
Governor
State of Louisiana,
By ____________________
Governor
State of Alabama,
By ____________________
Governor
State of Mississippi,
By ____________________
Governor
Commonwealth of Kentucky,
By ____________________
Governor

State of Tennessee,
By ____________________
Governor
Commonwealth of Virginia,
By ____________________
Governor
State of Arkansas,
By ____________________
Governor
State of North Carolina,
By ____________________
Governor
State of South Carolina,
By ____________________
Governor
State of Texas,
By ____________________
Governor
State of Oklahoma,
By ____________________
Governor

State of West Virginia,

By ____________________

Governor

SOURCES: Codes, 1942, § 6800.5; Laws, 1948, ch. 284; Laws, 1950, ch. 383, §§ 1-10; Laws, 2005, ch. 428, § 1; Laws, 2005, ch. 510, § 1, eff from and after July 1, 2005.

Joint Legislative Committee Note — Section 1 of ch. 428 Laws of 2005, effective July 1, 2005 (approved March 21, 2005), amended this section. Section 1 of ch. 510, Laws of 2005, effective July 1, 2005 (approved April 20, 2005), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 510, Laws of 2005, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the one with the latest approval date shall supersede all other amendments to the same section approved on an earlier date.

Cross References — Governor of Mississippi generally, see §§ 7-1-1 et seq.

State Board of Education generally, see §§ 37-1-1 et seq.

State Department of Education generally, see §§ 37-3-1 et seq.

Comparable Laws from other States — Alabama Code, §§ 16-3-32 through 16-3-35, 16-23A-1 et seq., 16-44-1 et seq.

Arkansas Code Annotated, §§ 6-4-101 through 6-4-107, 6-4-201 through 6-4-203.

Florida Annotated Statutes, §§ 1000.31 through 1000.34.

Georgia Code Annotated, §§ 20-6-1, 20-6-20 through 20-6-24.

Kentucky Revised Statutes Annotated, § 164.530.

Louisiana Revised Statutes Annotated, §§ 17:1901, 17:1911 et seq.

Maryland Education Code Annotated, §§ 25-201 through 25-205.

North Carolina General Statutes, § 115C-104.

Oklahoma Statutes Annotated, 70 Okl. St. § 506.1.

South Carolina Code Annotated, § 59-11-10.

Tennessee Code Annotated, §§ 49-12-101, 49-12-201, 49-12-203.

Texas Education Code, §§ 160.01 et seq., 161.01 et seq.

Virginia Code Annotated, §§ 22.1-358, 22.1-359.

West Virginia, §§ 18-10C-1 through 18-10C-3.

§ 37-135-3. Approval of Delaware and West Virginia for admission into compact.

The States of Delaware and West Virginia are hereby approved by the State of Mississippi for admission into the southern regional education compact to which the State of Mississippi became a party with the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia on April 13, 1948, under the provisions of Section 37-135-1, said section being Chapter 284, Laws of Mississippi of 1948, as amended and further amplified by Chapter 383, Laws of Mississippi of 1950, approved April 18, 1950. The admission of the States of Delaware and West Virginia to the southern regional education compact shall become effective upon the approval of their respective legislatures and their respective governors and upon the approval of their admission by the other states who are parties to the compact.

SOURCES: Codes, 1942, § 6800.6; Laws, 1955, Ex Sess, ch. 63.

COMPACT FOR EDUCATION

SEC.
37-135-11 through 37-135-15. Repealed

§§ 37-135-11 through 37-135-15. Repealed.

Repealed by Laws of 2013, ch. 417, § 1, eff from and after passage (approved March 20, 2013).

§ 37-135-11. [Laws, 1979, ch. 394, § 1; Laws, 1986, ch. 382; Laws, 1990, ch. 397, § 1; Laws, 1992, ch. 396 § 4, eff from and after passage (approved April 27, 1992).]

§ 37-135-13. [Laws, 1979, ch. 394, § 3, eff from and after July 1, 1979.]

§ 37-135-15. [Laws, 1979, ch. 394, § 2, eff from and after July 1, 1979.]

Editor's Note — Former § 37-135-11 enacted the Compact for education.
Former § 37-135-13 required the filing of copies of bylaws and amendments.
Former § 37-135-15 created the Mississippi Education Council.

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

SEC.
37-135-31. Purpose; applicability; educational records and enrollment; placement and attendance; eligibility; graduation; state coordination; Interstate Commission on Educational Opportunity for Military Children powers and duties, organization and operation, rule-making functions, oversight, enforcement and dispute resolution, and financing; member states, effective date and amendment; withdrawal and dissolution; severability and construction; other laws.

§ 37-135-31. Purpose; applicability; educational records and enrollment; placement and attendance; eligibility; graduation; state coordination; Interstate Commission on Educational Opportunity for Military Children powers and duties, organization and operation, rule-making functions, oversight, enforcement and dispute resolution, and financing; member states, effective date and amendment; withdrawal and dissolution; severability and construction; other laws.

ARTICLE I
PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

ARTICLE II
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 USC, Sections 1209 and 1211.

B. "Children of military families" means school-aged children, enrolled in Kindergarten through 12th Grade, in the household of an active duty member.

C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means the period one (1) month prior to the service members' departure from their home station on military orders through six (6) months after return to their home station.

E. "Educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including, but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this compact, which is generally referred to as the Interstate Commission.

H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through 12th Grade public educational institutions.

I. "Member state" means a state that has enacted this compact.

J. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory. Such term does not include any facility used primarily for civil works, river and harbor projects, or flood control projects.

K. "Nonmember state" means a state that has not enacted this compact.

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission and has the force and effect of statutory law in a member state; and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory.

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through 12th Grade.

Q. "Transition" means: (i) the formal and physical process of transferring from school to school or (ii) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means a person who served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III
APPLICABILITY

A. Except as otherwise provided in subsection B, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 USC, Sections 1209 and 1211;
2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and
3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this interstate compact shall not apply to the children of:

1. Inactive members of the National Guard and Military Reserves;
2. Members of the uniformed services now retired, except as provided in subsection A;
3. Veterans of the uniformed services, except as provided in subsection A; and
4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV
EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education records from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations. Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First Grade entrance age. Students shall be allowed to continue their enrollment at the grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V
PLACEMENT AND ATTENDANCE

A. Course placement. When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, honors, International Baccalaureate, advanced placement, vocational, technical, and career pathway courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement. The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to, (i) gifted and talented programs, and (ii) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services. In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 USC, Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP) and in compliance with the requirements of Section 504 of the Rehabilitation Act, 29 USC, Section 794, and with Title II of the Americans with Disabilities Act, 42 USC, Sections 12131-12165, and the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility. Local education agency administrative officials shall have flexibility in waiving course/program prerequisites or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities. A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI
ELIGIBILITY

A. Eligibility for enrollment.

1. Special power of attorney, relative to the guardianship of a child of a military family, and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent;

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent; and

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he/she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation. State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII
GRADUATION

In order to facilitate the on-time graduation of children of military families, state and local education agencies shall incorporate the following procedures:

A. Waiver requirements. Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams. States shall accept: (i) exit or end-of-course exams required for graduation from the sending state, (ii) national norm-referenced achievement tests, or (iii) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, subsection C shall apply.

C. Transfers during senior year. Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections A and B of this Article.

ARTICLE VIII
STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: (i) the state superintendent of education, (ii) the superintendent of a school district with a high concentration of military children, (iii) one (1) representative from a military installation, (iv) one (1) representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The Governor of each member state shall appoint or designate a compact commissioner responsible for the administration and management of the state's participation in the compact and who is empowered to establish statewide policy related to matters governed by this compact.

D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX
INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the Interstate Commission on Educational Opportunity for Military Children. The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one (1) Interstate Commission voting representative from each member state who shall be that state's compact commissioner and who is empowered to establish statewide policy related to matters governed by this compact.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one (1) vote;
2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission;
3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from the state for a specified meeting; and
4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one (1) vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rule-making, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Department of Defense shall serve as an ex officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Public notice shall be given by the Interstate Commission of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds (2/3) vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information that is privileged or confidential;
4. Involve accusing a person of a crime or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes; or
7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. For a meeting, or portion of a meeting, closed pursuant to the provisions of subsection G, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes, which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. The Interstate Commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. Such methods of data collection, exchange, and reporting shall, insofar as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. The Interstate Commission shall create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This subsection shall not be construed to create a private right of action against the Interstate Commission or any member state.

ARTICLE X
POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process.

E. To establish and maintain offices, which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire, or contract for services of personnel.

H. To establish and appoint committees, including, but not limited to, an executive committee as required by Article IX, subsection E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of them.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within twelve (12) months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meetings;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving all of its debts and obligations; and
7. Providing "start-up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson and a treasurer, each of whom shall have the authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, officers, and personnel.

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including, but not limited to: (a) managing

the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission; (b) overseeing an organizational structure within and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and (c) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities, provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or the Interstate Commission representatives, acting within the scope of their employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection D shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate

Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII

RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rule-making authority. The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rule-making procedure. Rules shall be made pursuant to a rule-making process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the Legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law;

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to

the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission; and

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

B. Default, technical assistance, suspension, and termination.

If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default;

2. Provide remedial training and specific technical assistance regarding the default;

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default;

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's Legislature, and each of the member states;

5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, including obligations the performance of which extends beyond the effective date of suspension or termination;

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state; and

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute resolution.

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission may by majority vote of the members initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices to enforce compliance with the provisions of the compact, its promulgated rules and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV
FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV
MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2008. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The Governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI
WITHDRAWAL AND DISSOLUTION

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact specifically by repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of compact.

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII
SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other laws.

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding effect of the compact.

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the Legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

SOURCES: Laws, 2009, ch. 410, §§ 1-18, eff from and after passage (approved Mar. 18, 2009.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed "Article VII, Section C shall apply" to "Article VII, subsection C shall apply" in Article VII, subsection B, and changed "This section" to "This subsection" in Article IX, subsection J. The Joint Committee ratified the correction at its July 22, 2010 meeting.

Editor's Note — The reference to "Article VII, Section C" in subsection B should be to "Article VII, subsection C."

Laws of 2009, ch. 410, § 19, provides:

"SECTION 19. This act shall take effect and be in force when enacted into law by no less than ten (10) of the fifty (50) United States."

On July 9, 2008, Delaware became the 10th state to enact this compact when the governor signed 76 De. Laws, c. 327, which contained the compact.

The reference to "Section C" in the last sentence of subsection B of Article VII should be to "subsection C." This section is set out above as enacted by Chapter 410 of Laws of 2009.

Comparable Laws from other States — Arizona: A.R.S. § 15-1911.

Colorado: C.R.S. 24-60-3401 et seq.

Delaware: 14 De. C. § 160A et seq.

Florida: Fla. Stat. § 1000.36 et seq.

Indiana: Burns Ind. Code Ann. § 20-38-3-1 et seq.

Kansas: K.S.A. § 72-60c01.

Kentucky: § 156.730.

Michigan: MCLS §§ 3.1041, 3.1042.

Missouri: § 160.2000 R.S.Mo.

North Carolina: N.C. Gen. Stat. § 115C-407.5 et seq.

Oklahoma: 70 Okl. St. § 510.1.
Texas: Tex. Educ. Code § 162.001 et seq.
Virginia: Va. Code Ann. §§ 22.1-360, 22.1-361.

CHAPTER 137

School Asbestos Hazard Elimination Act
[Repealed]

§§ 37-137-1 through 37-137-33. Repealed.

Repealed by Laws, 1986, ch. 433, § 19, eff from and after June 30, 1996.

[Laws, 1986, ch. 433, §§ 1-17; Laws, 1988, ch. 367 § 1; Laws, 1989, ch. 505 § 16].

Editor's Note — Former §§ 37-137-1 through 37-13-7-33 related to school asbestos hazard elimination. For current provisions, see §§ 37-138-1 et seq.

CHAPTER 138

Asbestos Abatement Accreditation and Certification Act

Sec.	
37-138-1.	Short title.
37-138-3.	Purpose.
37-138-5.	Definitions.
37-138-7.	Adoption of certification and accreditation plan.
37-138-9.	Powers and duties of commission.
37-138-11.	Management planner certificate required.
37-138-13.	Project designer certificate required.
37-138-14.	Air monitors; accreditation and certification requirements; application procedure.
37-138-15.	Contractor certificate required.
37-138-17.	Supervisor certificate required.
37-138-19.	Inspector certificate required.
37-138-21.	Worker certificate required.
37-138-23.	Denial of issuance or renewal of certificates.
37-138-25.	Certificate fees and special revenue fund.
37-138-27.	Penalties, reprimands, suspensions and revocation of certificates.
37-138-29.	Reciprocity; rules and regulations.
37-138-31.	Repealed.

§ 37-138-1. Short title.

This chapter shall be known as and may be cited as the Asbestos Abatement Accreditation and Certification Act.

SOURCES: Laws, 1989, ch. 505, § 1, eff from and after passage (approved April 4, 1989).

Cross References — Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

RESEARCH REFERENCES

Am Jur. 40 Am. Jur. Trials 317, Cost Recovery Litigation: Abatement of Asbestos Contamination.

§ 37-138-3. Purpose.

The purpose of this chapter is to provide for the accreditation and certification of persons who perform inspections and reinspections, prepare management plans and perform as air monitors, contractors, project designers, supervisors and workers in abatement projects for the purpose of identifying, evaluating and abating the hazard of asbestos-containing material in public and private elementary and secondary school buildings and in all public and commercial buildings in this state. It is the intent of this chapter that the cost of the administration of this chapter shall be borne fully by the certification fees provided for herein.

SOURCES: Laws, 1989, ch. 505, § 2; Laws, 1994, ch. 508, § 1, eff from and after June 30, 1994.

Cross References — Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-5. Definitions.

(a) "Abatement" means removal, encapsulation, enclosure or repair of or an operations and maintenance program for asbestos-containing materials.

(b) "Air monitor" means person who collects airborne samples for analysis of asbestos fibers during an abatement project including baseline, area, personal and clearance samples.

(c) "Asbestos-containing materials" (ACM) means any material or product which contains more than one percent (1%) asbestos.

(d) "Asbestos project" means a project for the abatement of ACM in school buildings, public buildings and commercial buildings except for exclusions adopted by the commission in accordance with Section 37-138-9(a) and except for abatement of asbestos-containing resilient floor tile, sheet vinyl flooring and associated adhesives, provided there is a two-working-day advance notification to the commission of the abatement of asbestos-containing floor tile, sheet vinyl flooring and associated adhesives, unless sanding, grinding, burning or sawing occurs or such abatement is otherwise considered a "response action" or would cause the material to become "friable" as both those terms are defined under 40 C.F.R. Section 763.83.

(e) "Certificate" means a document authorizing a person to perform certain specific activities related to the identification, evaluation or abatement of ACM in school buildings, public buildings and commercial buildings as described in this chapter.

(f) "Commercial building" means any privately owned building in which the public is invited or allowed access and any other privately owned building so located that the conduct of any asbestos abatement activities therein could reasonably expose any person or persons to ACM hazards, except that a commercial building shall not include any residence.

(g) "Commission" means the Mississippi Commission on Environmental Quality.

(h) "Contractor" means a person who enters into a contract for the performance of an asbestos project.

(i) "Director" means the Executive Director of the Mississippi Department of Environmental Quality.

(j) "Inspector" means a person employed to inspect or reinspect for presence of ACM, collect samples of ACM confirmation and provide written assessment of ACM.

(k) "Management plan" is a plan for abatement of ACM.

(*l*) "Management planner" means a person employed to develop a management plan.

(m) "Model plan" means the Model Accreditation Plan for states promulgated at Section I of Appendix C to Title 40, Part 763, Subpart E of the Code of Federal Regulations.

(n) "Operations and maintenance program" means a program of work practices to maintain ACM in good condition, ensure cleanup of asbestos fibers previously released, and prevent further release by minimizing and controlling ACM disturbance or damage.

(o) "Person" means the state or other agency or institution thereof, any municipality, political subdivision, public or private corporation, individual, partnership, association or other entity, and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation, or the United States or any officer or employee thereof.

(p) "Project designer" means a person who specifies engineering methods and work practices to be used during asbestos projects.

(q) "Public building" means any building owned by the state, counties, municipalities, institutions of higher learning, community colleges or any political subdivision.

(r) "School" means any elementary or secondary school as defined in Section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C.S. 2854).

(s) "School building" means:

(i) Any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility, or facility used for the preparation of food.

(ii) Any gymnasium or other facility which is specially designed for athletic or recreational activities or for an academic course in physical education.

(iii) Any other facility used for the instruction or housing of students or for the administration of educational or research programs.

(iv) Any maintenance, storage or utility facility, including any hallway, essential to the operation of any facility described in this definition of "school building" under paragraphs (i), (ii) or (iii).

(v) Any portico or covered exterior hallway or walkway.

(vi) Any exterior portion of a mechanical system used to condition interior space.

(t) "Supervisor" means a person designated by a contractor to be responsible for direction of day-to-day activities of an asbestos project.

(u) "Worker" means a person who works on an asbestos project other than a project designer, contractor, supervisor or management planner.

(v) The commission is authorized to adopt by promulgated regulation any or all additional definitions necessary to carry out the intent of this chapter.

SOURCES: Laws, 1989, ch. 505, § 3; Laws, 1990, ch. 517, § 1; Laws, 1990, 1st Ex Sess, ch. 53, § 1; Laws, 1992, ch. 473, § 1; reenacted and amended, Laws, 1993, ch. 390, § 1; Laws, 1994, ch. 508, § 2, eff from and after June 30, 1994.

Editor's Note — Section 198 of the Elementary and Secondary Education Act of 1965," referred to in this section, is § 198 of Act April 11, 1965, P.L. 89-10, Title I, as added by Act Nov. 1, 1978, P.L. 95-561, Title I, § 101(a), 92 Stat. 2198, which appeared as 20 USCS § 2854 prior to the general revision of Act April 11, 1965 by Act April 28, 1988, P.L. 100-297, 102 Stat. 140. Similar provisions could be found at 20 USCS § 2891 (April 11, 1965, P.L. 89-10, Title I, Ch 1, Part F, Subpart 5, § 1471, as added April 28, 1988, P.L. 100-297, Title I, § 1001, 102 Stat. 200) until that section was omitted in the general revision of Act April 11, 1965, P.L. 89-10, by Act Oct. 20, 1994, P.L. 103-382, Title I, § 101, 108 Stat. 3519, generally effective July 1, 1995, as provided by § 3(a)(1) of such Act, which appears as 20 USCS § 6301 note. The section provided definitions applicable to provisions relating to programs to meet special educational needs of children.

Cross References — Mississippi Department of Environmental Quality, see §§ 49-2-1 et seq.

Mississippi Commission on Environmental Quality, see §§ 49-2-5 through 49-2-11.

Powers and duties of executive director of the Mississippi Department of Environmental Quality, see § 49-2-13.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-7. Adoption of certification and accreditation plan.

The commission is authorized and directed to adopt regulations for certification of contractors, inspectors, management planners, project designers, air monitors, supervisors and workers. The regulations shall include an accreditation plan which shall be equivalent to paragraphs 1 through 3 of the Model Plan. The accreditation plan shall be no more stringent than the Model Plan, except as provided herein. The regulations and accreditation plan shall include the requirements for all training courses for accreditation of contractors, inspectors, management planners, project designers, air monitors, supervisors and workers. All regulations promulgated by the commission pursuant to this chapter shall not be effective until November 1, 1990. By October 1, 1989, the Board of Trustees of State Institutions of Higher Learning shall designate a university which may offer all training courses set forth in the regulations and accreditation plan and such university may charge reasonable fees to offset costs of the courses offered. The commission shall not approve any training courses offered in Mississippi other than those courses offered at the designated university and those certified abatement worker courses that have received Environmental Protection Agency approval pursuant to Section III of Appendix C to Title 40, Part 763, Subpart E, of the Code of Federal Regulations.

SOURCES: Laws, 1989, ch. 505, § 4; Laws, 1990, ch. 517, § 2; Laws, 1994, ch. 508, § 3, eff from and after June 30, 1994.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

Federal Aspects — Model Accreditation Plan, see 40 C.F.R. 763.

§ 37-138-9. Powers and duties of commission.

The commission shall administer and enforce this chapter and shall have the following powers and duties under this chapter:

(a) To adopt, modify, repeal and promulgate, after due notice and hearing, and where not otherwise prohibited by federal or state law, to make exceptions to and grant exemptions and variances from, and to enforce rules and regulations implementing or effectuating the powers and duties of the commission under this chapter, including but not limited to rules and regulations concerning the required accreditation training, the issuance and annual renewal of certificates, the assessment of annual fees and the assessment of penalties, reprimands, and the suspension and revocation of certificates, abatement emergencies and the exclusion of minor abatement and/or routine maintenance activities at commercial buildings, industrial facilities, public buildings and school buildings from any requirements of this chapter;

(b) To issue certificates for the positions of management planner, project designer, air monitor, contractor, supervisor, inspector and worker and to renew said certificates annually;

(c) To assess penalties, to issue reprimands and to suspend and revoke certificates;

(d) To assess annual fees for the issuance and annual renewal of certificates;

(e) To approve the accreditation of training courses administered to applicants for issuance and annual renewal of certificates and to develop an examination and grading system for testing applicants, to be administered by the designated university;

(f) Administration and expenditure of funds deposited in and expended by legislative appropriation from the Asbestos Abatement Accreditation and Certification Fund;

(g) Reciprocal arrangements for accreditation and certification of management planners, project designers, air monitors, contractors, supervisors, inspectors and workers with other states that have established accreditation and certification programs that meet or exceed the accreditation and certification requirements of this chapter;

(h) To apply for, receive and expend any federal or state funds or contributions, gifts, devises, bequests or funds from any other source relating to this chapter;

(i) To commission or conduct studies relating to this chapter;

(j) To enter into, and to authorize the executive director to execute with the approval of the commission, contracts, grants and cooperative agreements with any federal or state agency or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter; but this authority under this chapter shall not include contracts, grants or cooperative agreements which do not develop data or information usable by the commission in connection with this chapter, or which provide goods, services or facilities to the commission or any of its bureaus, and shall exclude any monies for special interest groups for purposes of lobbying or otherwise promoting their special interests; and

(k) To discharge such other duties, responsibilities and powers as are necessary to implement the provisions of this chapter.

SOURCES: Laws, 1989, ch. 505, § 5; Laws, 1990, ch. 517, § 3; Laws, 1994, ch. 508, § 4, eff from and after June 30, 1994.

Cross References — Definitions, see § 37-138-5.

Asbestos Accreditation and Certification Fund, see § 37-138-25.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-11. Management planner certificate required.

(1) It is unlawful for an individual who does not possess a valid management planner certificate to develop a management plan.

(2) To qualify for an asbestos management planner certificate, an applicant shall:

(a)(i) Have attained a Bachelor of Science degree in engineering or its equivalent from an accredited university and be licensed by the Mississippi Board of Registration for Professional Engineers and Land Surveyors as a registered professional engineer or, (ii) have attained a Bachelor of Science degree in architecture or its equivalent from an accredited university and be licensed as an architect by the Mississippi Board of Architecture or, (iii) have satisfactorily completed prior to April 1, 1990, an initial management planner training course approved by the United States Environmental Protection Agency and any applicable annual refresher training courses approved by the United States Environmental Protection Agency such that management planner training has been continuously current and is current as of April 1, 1990, for the purpose of satisfying this paragraph (a) only; however, this subparagraph (iii) shall apply only to applicants applying for a certificate prior to November 1, 1991; and

(b) Satisfactorily complete a commission-approved training course for asbestos management planners, except that a management planner training course approved by the United States Environmental Protection Agency satisfactorily completed shall be sufficient to meet this requirement; and

(c) Demonstrate to the satisfaction of the commission that the applicant is familiar with and capable of complying fully with all applicable federal and state laws and regulations.

(3) Any certificate issued by the commission pursuant to this section and requirements (b) and (c) of subsection (2) of this section shall be renewed on an annual basis.

(4) Each applicant for a management planner certificate shall, on an annual basis, submit to the commission, on forms prepared by the commission,

an application for issuance or renewal of the certificate, whichever is applicable, and a certificate that shows satisfactory completion of the training course(s) specified in subsection (2)(b) above and shall pay the applicable annual fee.

SOURCES: Laws, 1989, ch. 505, § 6; Laws, 1990, ch. 517, § 4; Laws, 1990, 1st Ex Sess, ch. 53, § 2, eff from and after passage (approved June 30, 1990).

Cross References — Denial of issuance or renewal of certificate, see § 37-138-23.

Assessment and collection of fees for issuance and annual renewal of certificate, see § 37-138-25.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-13. Project designer certificate required.

(1) It is unlawful for any person who does not possess a valid project designer certificate to specify engineering methods and work practices under an asbestos project to another person.

(2) To qualify for a project designer certificate, an applicant shall:

(a)(i) Have attained a Bachelor of science degree in engineering or its equivalent from an accredited university and be licensed by the Mississippi Board of Registration for Professional Engineers and Land Surveyors as a registered professional engineer or, (ii) have attained a Bachelor of Science degree in architecture or its equivalent from an accredited university and be licensed as an architect by the Mississippi Board of Architecture or, (iii) have satisfactorily completed prior to April 1, 1990, either a project designer training course or an asbestos abatement contractor training course and a supervisor's training course, each approved by the United States Environmental Protection Agency, and any applicable annual refresher training courses approved by the United States Environmental Protection Agency such that applicable training has been continuously current and is current as of April 1, 1990, for the purpose of satisfying this paragraph (a) only; however, this subparagraph (iii) shall apply only to applicants applying for a certificate prior to November 1, 1991;

(b) Satisfactorily complete a commission-approved training course for project designers, except that a project designer training course approved by the United States Environmental Protection Agency satisfactorily completed shall be sufficient to meet this requirement; and

(c) Demonstrate to the satisfaction of the commission that the applicant and applicant's employees and agents are familiar with and capable of complying with all applicable federal and state laws and regulations.

(3) Any certificate issued by the commission pursuant to this section and requirements (b) and (c) of subsection (2) of this section shall be renewed on an annual basis.

(4) Each applicant for a project designer certificate shall, on an annual basis, submit to the commission, on forms prepared by the commission, an

application for issuance or renewal of the certificate, whichever is applicable, and a certificate that shows satisfactory completion of the training course(s) specified in subsection (2)(b) above and shall pay the applicable annual fee.

SOURCES: Laws, 1989, ch. 505, § 7; Laws, 1990, ch. 517, § 5; Laws, 1990, 1st Ex Sess, ch. 53, § 3, eff from and after passage (approved June 30, 1990).

Cross References — Denial of issuance or renewal of certificate, see § 37-138-23.

Assessment and collection of fees for issuance and annual renewal of certificate, see § 37-138-25.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-14. Air monitors; accreditation and certification requirements; application procedure.

(1) After January 1, 1995, it is unlawful for any person who does not possess a valid air monitor certificate to collect air samples for analysis of asbestos fibers during an abatement project.

(2) To qualify for an air monitor certificate, an applicant shall:

(a) Have earned a high school diploma or its equivalent;

(b) Satisfactorily complete a commission-approved training course for supervisors. A supervisor training course approved by the United States Environmental Protection Agency completed satisfactorily shall be sufficient to meet this requirement;

(c) Satisfactorily complete a commission-approved training course for collecting and evaluating air samples; and

(d) Demonstrate to the satisfaction of the commission that the applicant is familiar with and capable of complying with all applicable federal and state laws and regulations.

(3) Any certificate issued by the commission pursuant to this section shall be renewed on an annual basis.

(4) Applicants for an air monitor certificate shall submit to the commission, on forms prepared by the commission, an application for issuance or renewal of this certificate, whichever is applicable, and a certificate that shows satisfactory completion of the training course(s) specified in paragraphs (2)(b) and (2)(c) of this section. The applicant shall pay the applicable annual fee upon submitting his application for the air monitor certificate to the commission.

SOURCES: Laws, 1994, ch. 508, § 5, eff from and after June 30, 1994.

§ 37-138-15. Contractor certificate required.

(1) It is unlawful for any person who does not possess a valid contractor certificate to contract with another person for asbestos abatement.

(2) To qualify for a contractor certificate, an applicant shall:

(a) Have earned a high school diploma or its equivalent;

(b) Satisfactorily complete a commission-approved training course for contractors, except that a contractor training course approved by the United States Environmental Protection Agency satisfactorily completed shall be sufficient to meet this requirement; and

(c) Demonstrate to the satisfaction of the commission that the applicant and the applicant's employees, subcontractors and agents are familiar with and are capable of complying with all applicable federal and state laws and regulations.

(3) Any certificate issued by the commission pursuant to this section and requirements (b) and (c) of subsection (2) of this section shall be renewed on an annual basis.

(4) Applicants for a contractor certificate shall submit to the commission, on forms prepared by the commission, an application for issuance or renewal of the certificate, whichever is applicable, and a certificate that shows satisfactory completion of the training course(s) specified in subsection (2)(b) above and shall pay the applicable annual fee.

SOURCES: Laws, 1989, ch. 505, § 8, eff from and after April 1, 1990.

Cross References — Denial of issuance or renewal of certificate, see § 37-138-23.

Assessment and collection of fees for issuance and annual renewal of certificate, see § 37-138-25.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-17. Supervisor certificate required.

(1) It is unlawful for an individual who does not possess a valid supervisor certificate to direct an asbestos project.

(2) To qualify for an asbestos abatement supervisor certificate, an applicant shall:

(a) Have earned a high school diploma or its equivalent;

(b) Satisfactorily complete a commission-approved training course for supervisors, except that a supervisor training course approved by the United States Environmental Protection Agency satisfactorily completed shall be sufficient to meet this requirement; and

(c) Demonstrate to the satisfaction of the commission that the applicant is familiar with and capable of complying with all applicable federal and state laws and regulations.

(3) Any certificate issued by the commission pursuant to this section and requirement (b) and (c) of subsection (2) of this section shall be renewed on an annual basis.

(4) Applicants for a supervisor certificate shall submit to the commission, on forms prepared by the commission, an application for issuance or renewal of this certificate, whichever is applicable, and a certificate that shows satisfactory completion of the training course(s) specified in subsection (2)(b) above and shall pay the applicable annual fee.

SOURCES: Laws, 1989, ch. 505, § 9, eff from and after April 1, 1990.

Cross References — Denial of issuance or renewal of certificate, see § 37-138-23.

Assessment and collection of fees for issuance and annual renewal of certificate, see § 37-138-25.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-19. Inspector certificate required.

(1) It is unlawful for an individual who does not possess a valid inspector certificate to work as an asbestos inspector.

(2) To qualify for an inspector certificate, an applicant shall:

(a) Have earned a high school diploma or its equivalent;

(b) Satisfactorily complete a commission-approved training course for inspectors, except that an inspector training course approved by the United States Environmental Protection Agency satisfactorily completed shall be sufficient to meet this requirement; and

(c) Demonstrate to the satisfaction of the commission that the applicant is familiar with and capable of complying with all federal and state laws and regulations.

(3) Any certificate issued by the commission pursuant to this section and requirements (b) and (c) of subsection (2) of this section shall be renewed on an annual basis.

(4) Applicants for an inspector certificate shall submit to the commission, on forms prepared by the commission, an application for issuance or renewal of the certificate, whichever is applicable, and a certificate that shows satisfactory completion of the training course(s) specified in subsection (2)(b) above and shall pay the applicable annual fee.

SOURCES: Laws, 1989, ch. 505, § 10, eff from and after April 1, 1990.

Cross References — Denial of issuance or renewal of certificate, see § 37-138-23.

Assessment and collection of fees for issuance and annual renewal of certificate, see § 37-138-25.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-21. Worker certificate required.

(1) It shall be unlawful for an individual who does not possess a valid worker certificate to work as a worker on an asbestos project.

(2) It shall be unlawful for a contractor to employ a person as a worker on an asbestos project who does not possess a valid worker certificate in accordance with this section.

(3) To qualify for a worker certificate an individual shall:

(a) Satisfactorily complete a commission-approved training course for abatement workers, except that a worker training course approved by the

United States Environmental Protection Agency satisfactorily completed shall be sufficient to meet this requirement;

(b) Demonstrate to the satisfaction of the commission that the applicant is familiar with and is capable of complying fully with all applicable federal and state laws and regulations; and

(c) Provide written proof satisfactory to the commission, on forms prepared by the commission, of a physical examination by a physician licensed by the State Board of Medical Licensure or by a physician licensed to practice medicine in any other state approving the applicant to work on an asbestos project. Requirement (c) of subsection (3) shall be renewed every three (3) years. A chest X-ray is not required for either the initial or any renewal application.

(4) Any certificate issued by the commission pursuant to this section and requirements (a) and (b) of subsection (3) of this section shall be renewed on an annual basis.

(5) Applicants for a worker certificate shall submit to the commission, on forms prepared by the commission, an application for issuance or renewal of the certificate, whichever is applicable, and a certificate that shows satisfactory completion of training course(s) specified in subsection (3)(a) above and shall pay the applicable annual fee.

SOURCES: Laws, 1989, ch. 505, § 11; Laws, 1990, ch. 517, § 6; Laws, 1991, ch. 313 § 1, eff from and after passage (approved March 15, 1991).

Cross References — Denial of issuance or renewal of certificate, see § 37-138-23.

Assessment and collection of fees for issuance and annual renewal of certificate, see § 37-138-25.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-23. Denial of issuance or renewal of certificates.

The commission may deny to issue or renew any certificate required by Sections 37-138-11 through 37-138-21 if (a) there has been a failure to comply with the application procedures established by this chapter and by regulations promulgated by the commission, or (b) if the applicant fails to satisfy the application criteria established by this chapter and by regulations promulgated by the commission, or (c) if the applicant fails to pay the applicable annual certificate fee.

SOURCES: Laws, 1989, ch. 505, § 12, eff from and after passage (approved April 4, 1989).

Cross References — Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-25. Certificate fees and special revenue fund.

(1) The commission is authorized to assess and collect fees for the issuance and annual renewal of certificates for management planner, project designer, air monitor, contractor, supervisor, inspector and worker pursuant to Sections 37-138-11 through 37-138-21 in amounts sufficient to fully administer this chapter. The fees assessed pursuant to this section are conditions precedent to the issuance and renewal of the certificates set forth in Sections 37-138-11 through 37-138-21.

(2) There is hereby established a special revenue fund to be known as the Asbestos Abatement Accreditation and Certification Act Fund (the fund) to be deposited in an approved state depository and expended by appropriation approval by the Legislature for the administration of this chapter as provided by law. The interest obtained from any investment or deposit of monies in the fund shall be deposited by the State Treasurer to such fund. Furthermore, all monies collected as fees for certificates provided by this chapter shall, not later than sixty (60) days next succeeding the month in which collections were made, be paid over to the fund.

(3) If the total of monies deposited into the fund exceeds the appropriation by the Legislature for the administration of this chapter, the monies shall be retained in the depository for the fund to be expended by appropriation approval by the Legislature for the administration of this chapter as provided by law in the next succeeding fiscal year.

(4) The commission shall have authority to promulgate rules and regulations for the administration of and expenditures from the fund.

SOURCES: Laws, 1989, ch. 505, § 13; Laws, 1994, ch. 508, § 6, eff from and after June 30, 1994.

Cross References — Powers and duties of commission generally, see § 37-138-9.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

§ 37-138-27. Penalties, reprimands, suspensions and revocation of certificates.

(1) Any person found by the commission to have violated any of the provisions of this chapter or any rule or regulation or written order of the commission in pursuance thereof or any certificate issued pursuant to this chapter shall be subject to (a) a civil penalty of not more than Twenty-five Thousand Dollars ($25,000.00) for each violation, such penalty to be assessed and levied by order of the commission after notice and hearing in accordance with subsection (5) below of this section, and (b) a reprimand or a suspension or revocation of any certificate issued to the person pursuant to this chapter, such reprimand, suspension or revocation to be assessed and levied by order of the commission after notice and hearing as provided in subsection (5) below of this section.

(2) In lieu of, or in addition to, the penalty provided for in subsection (1)(a) of this section, the commission shall have power to institute and maintain in the name of the state any and all proceedings necessary or appropriate to enforce the provisions of this chapter, rules and regulations enforced pursuant thereto, and orders and certificates issued pursuant to this chapter in the appropriate circuit, chancery, county or justice court of the county in which venue may lie. The commission may obtain mandatory or prohibitory injunctive relief, either temporary or permanent, and it shall not be necessary in such cases that the state plead or prove: (a) that irreparable damage would result if the injunction did not issue; (b) that there is no adequate remedy at law; or (c) that a written complaint or commission order has first been issued for the alleged violation.

(3) Any person who knowingly submits false or inaccurate information in support of an application for issuance or renewal of a certificate under this chapter or who willfully fails to comply with the conditions of the certificate issued by the commission or who willfully violates this chapter, or any rule, regulation or written order of the commission or emergency order issued by the director in pursuance thereof shall, upon conviction, be guilty of a misdemeanor and fined not less than One Hundred Dollars ($100.00) within the discretion of the court. Each day in which such violation exists or continues shall constitute a separate offense.

(4) In addition to or in lieu of filing a criminal complaint for such willful misconduct described in subsection (3) of this section, the commission may impose a civil penalty in accordance with subsection (1)(a) of this section, and shall impose a reprimand or a suspension or revocation of any certificate in accordance with subsection (1)(b) of this section.

(5) All proceedings and hearings before the commission regarding violations of this chapter or any rule or regulation, written order of the commission, emergency order of the director or certificate issued or renewed by the commission in pursuance thereof or any certificate issued pursuant to this chapter and all appeals therefrom shall be conducted in accordance with Sections 49-17-31 through 49-17-41, Mississippi Code of 1972.

(6) All fines, penalties and other sums recovered or collected by the commission for and on behalf of the state under this section shall be deposited in the Pollution Emergency Fund established under Section 49-17-68, Mississippi Code of 1972, and the commission is authorized to receive and accept, from any funds and all available sources whatsoever, additional funds to be deposited in such fund and expended for the purpose of remedial, clean-up, or abatement actions involving pollution of the land, air or waters of the state in violation of Sections 49-17-1 through 49-17-43, Mississippi Code of 1972, any rule or regulation or written order of the commission in pursuance thereof, or any condition or limitation of a permit.

SOURCES: Laws, 1989, ch. 505, § 14; Laws, 1990, ch. 517, § 7, eff from and after passage (approved April 2, 1990).

Cross References — Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 37-138-29. Reciprocity; rules and regulations.

The commission may establish requirements for reciprocity for accreditation and certification of management planners, project designers, contractors, supervisors, inspectors and workers with other states that have established accreditation and certification programs that meet or exceed the Model Plan and the accreditation and certification requirements of this chapter. The commission shall have the authority to issue orders and promulgate rules and regulations to carry out this section.

SOURCES: Laws, 1989, ch. 505, § 15, eff from and after passage (approved April 4, 1989).

Cross References — Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see § 49-17-25.

Federal Aspects — Model Accreditation Plan, see 40 C.F.R. 763, Appendix C to Subpart E.

§ 37-138-31. Repealed.

Repealed by Laws, 1994, ch. 508, § 7, eff from and after June 30, 1994. [Laws, 1990, ch. 517, § 8].

Editor's Note — Former § 37-138-31 was entitled: Repeal of sections 37-138-1 through 37-138-29.

CHAPTER 139

Mississippi School for Mathematics and Science

Sec.
37-139-1. Definitions.
37-139-3. Creation of school; purpose; State Board of Education as governing body; duties of Board.
37-139-5. Director of school.
37-139-7. Assistance of Department of Education and Board of Trustees of State Institutions of Higher Learning; authority of governing body to enter into agreements and contracts.
37-139-9. State Board of Education as exclusive governing body; rules and regulations; emphasis of school.
37-139-11. Authority to receive contributions.
37-139-13. Authorization and procedures for expenditures.

§ 37-139-1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed herein, except when the context clearly indicates a different meaning:

(a) "Board" means the State Board of Education.

(b) "School" means the Mississippi School for Mathematics and Science.

SOURCES: Laws, 1987, ch. 448, § 1; Laws, 1990, ch. 535, § 11, eff from and after July 1, 1990.

Editor's Note — Section 9, ch. 585, Laws of 1989, provides as follows:

"SECTION 9. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be unconstitutional or void, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect."

Cross References — State Board of Education, see Miss. Const. Art. 8, § 203.

State Board of Education generally, see §§ 37-1-1 et seq.

§ 37-139-3. Creation of school; purpose; State Board of Education as governing body; duties of Board.

(1) There is hereby created the Mississippi School for Mathematics and Science which shall be a residential school for eleventh and twelfth grade high school students located on the campus of the Mississippi University for Women.

(2) The school shall be governed by the State Board of Education.

(3) The board shall develop a plan relating to the opening, the operation and the funding of the school. Such plan shall be presented to the Legislature during the 1988 Regular Session and shall include an equitable and reasonable plan for student recruitment without regard to race, creed or color.

(4) The purpose of the school shall be to educate the gifted and talented students of the state, and its curriculum and admissions policies shall reflect such purpose.

(5) The board shall prepare the annual budget for the school.

SOURCES: Laws, 1987, ch. 448, § 2; Laws, 1990, ch. 535, § 12, eff from and after July 1, 1990.

Cross References — State Board of Education, see Miss. Const. Art. 8, § 203.
State Board of Education generally, see §§ 37-1-1 et seq.
Mississippi University for Women, see §§ 37-117-1 et seq.

§ 37-139-5. Director of school.

The board may hire a director when it so deems one necessary and when sufficient funds have been appropriated. The director shall serve at the board's will and pleasure. He shall be the chief administrative officer of the school and shall administer the school in accordance with policies established by the board. The director shall be responsible for such administrative duties and functions as the board shall so prescribe. The board shall be authorized, in its discretion, to delegate to the director such of its powers and duties as it deems appropriate.

SOURCES: Laws, 1987, ch. 448, § 3, eff from and after July 1, 1987.

ATTORNEY GENERAL OPINIONS

Assuming that funds have been appropriated for such purposes, the State Board of Education has authority to contract with one or more of the state institutions of higher learning to carry out various duties and functions relating to the operation of the schools. Chaney, July 30, 2004, A.G. Op. 04-0352.

§ 37-139-7. Assistance of Department of Education and Board of Trustees of State Institutions of Higher Learning; authority of governing body to enter into agreements and contracts.

The board shall be authorized to solicit and utilize the staff of the State Department of Education, staff of the Board of Trustees of State Institutions of Higher Learning and other state agencies as required for the implementation of this chapter. In addition, the board shall be authorized to contract or enter into agreements with other agencies and/or private research centers that it may deem necessary to carry out its duties and functions.

SOURCES: Laws, 1987, ch. 448, § 4, eff from and after July 1, 1987.

Cross References — State Department of Education generally, see §§ 37-3-1 et seq.
Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

ATTORNEY GENERAL OPINIONS

Assuming that funds have been appropriated for such purposes, the State Board of Education has authority to contract with one or more of the state institutions of higher learning to carry out various duties and functions relating to the operation of the schools. Chaney, July 30, 2004, A.G. Op. 04-0352.

§ 37-139-9. State Board of Education as exclusive governing body; rules and regulations; emphasis of school.

The board shall be the exclusive governing body of the Mississippi School for Mathematics and Science and is hereby authorized and empowered to promulgate rules and regulations required to carry out the provisions of this chapter. The emphasis of this school shall be dedicated to the academic teaching of mathematics and the sciences, but shall not preclude some emphasis being placed on the arts and humanities as deemed appropriate by the board.

SOURCES: Laws, 1987, ch. 448, § 5; Laws, 1990, ch. 595, § 13, eff from and after July 1, 1990.

Cross References — State Board of Education, see Miss. Const. Art. 8, § 203.
State Board of Education generally, see §§ 37-1-1 et seq.

§ 37-139-11. Authority to receive contributions.

For the operation and support of the Mississippi School for Mathematics and Science, the board is authorized and empowered to receive contributions, donations, gifts, bequests of money, other forms of financial assistance and/or property, equipment, materials or manpower from persons, foundations, trust funds, corporations, organizations and other sources, private or public, to be expended and utilized by said board in carrying out the provisions of this chapter.

SOURCES: Laws, 1987, ch. 448, § 6; Laws, 1990, ch. 535, § 14, eff from and after July 1, 1990.

Cross References — State Board of Education, see Miss. Const. Art. 8, § 203.
State Board of Education generally, see §§ 37-1-1 et seq.

§ 37-139-13. Authorization and procedures for expenditures.

All expenditures shall be authorized by the board. Such expenditures shall be paid therefrom by the State Treasurer on warrants issued by the State Fiscal Management Board. Said State Fiscal Management Board shall issue its warrant upon requisition signed by the proper person, officer or officers in the manner provided by law.

SOURCES: Laws, 1987, ch. 448, § 7; Laws, 1989, ch. 585, § 3, effective April 25, 1989 (became law without the Governor's signature).

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration."

CHAPTER 140

Mississippi School of the Arts

Sec.

37-140-1. Definitions.
37-140-3. Creation of school; purpose; initial enrollment.
37-140-5. School to be governed by State Board of Education; development of plan for opening, operation and funding of school; appointment of advisory panel.
37-140-7. Director of school.
37-140-9. Promulgation of rules and regulations; emphasis of school on performing, visual, and literary arts.
37-140-11. Preparation of annual budget; authority to receive contributions.
37-140-13. Expenditures.
37-140-15. Authority to contract with professional organizations for instruction and educational services.
37-140-17. “‘Helen Furlow Scruggs Y Hut” designated.

§ 37-140-1. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) “Board” means the State Board of Education.

(b) “School” means the Mississippi School of the Arts.

SOURCES: Laws, 1999, ch. 591, § 1, eff from and after July 1, 1999.

Cross References — State Board of Education, see Miss. Const. Art. 8, § 203.
State Board of Education generally, see §§ 37-1-1 et seq.

§ 37-140-3. Creation of school; purpose; initial enrollment.

(1) There is created the Mississippi School of the Arts, which shall be a residential school for eleventh and twelfth grade high school students located on the campus of Whitworth College in Brookhaven, Mississippi. The purpose of the school shall be to provide a more challenging educational experience for artistically talented and gifted students of the state to develop their full potential, including the teaching of humanities, creative writing, literature, theater, music, dance and visual arts, and the school's curriculum and admissions policies shall reflect that purpose.

(2) The 2001-2002 school year shall be the first year that the school shall admit students for enrollment, which shall be limited to students in the eleventh grade during the school's first year. Beginning with the 2002-2003 school year, the school shall enroll students in the eleventh and twelfth grades.

SOURCES: Laws, 1999, ch. 591, § 2, eff from and after July 1, 1999.

Cross References — Trusts to promote the arts, see §§ 39-9-1 et seq.
Local government funds to support the arts, see § 39-15-1.

§ 37-140-5. School to be governed by State Board of Education; development of plan for opening, operation and funding of school; appointment of advisory panel.

(1) The school shall be governed by the State Board of Education. The board shall develop a plan relating to the opening, operation and funding of the school to be presented to the Legislature during the 2000 Regular Session. The plan shall include an equitable and reasonable plan for student recruitment without regard to race, creed or color.

(2) The State Superintendent of Public Education shall appoint an advisory panel to assist the board in developing the plan relating to the school. The advisory panel shall consist of the following twelve (12) appointed or designated members:

(a) Three (3) licensed school teachers or administrators, one (1) to be appointed from each of the three (3) Mississippi Supreme Court Districts;

(b) Three (3) citizens or professionals representing the areas of dance, creative writing, literature, music, theater arts or visual arts, one (1) to be appointed from each of the three (3) Mississippi Supreme Court Districts;

(c) Three (3) citizens knowledgeable in business, personnel management or public administration, with at least three years' actual experience therein, one (1) to be appointed from each of the three (3) Mississippi Supreme Court Districts.

(d) One (1) member shall be a representative of the Mississippi Arts Commission to be designated by the commission, one (1) member shall be a representative of the Mississippi Humanities Council to be designated by the council, and one (1) member shall be a representative of the state institutions of higher learning in Mississippi which offer degrees in visual, fine and performing arts, to be designated by the Board of Trustees of State Institutions of Higher Learning.

Appointments to the advisory panel shall be made within ninety (90) days of April 23, 1999. The advisory panel shall meet upon the call of the State Superintendent of Public Education and shall organize for business by selecting a chairman and vice chairman/secretary for keeping records of the panel. Members of the advisory panel shall receive no compensation but may be reimbursed for necessary expenses and mileage for attending meetings and necessary business of the panel, in the amount authorized for state employees under Section 25-3-41.

(3) The board may utilize the staff of the State Department of Education and other state agencies as may be required for the implementation of this chapter. The department may employ any personnel deemed necessary by the board for assisting in the development and implementation of the plan relating to the opening, operation and funding of the school. The board also may contract or enter into agreements with other agencies or private entities which it deems necessary to carry out its duties and functions relating to the opening and operation of the school.

(4) To the extent possible, the board shall enter into agreements with the Board of Trustees of the Brookhaven Municipal Separate School District for

the dual enrollment of students for the purpose of teaching academic courses to students attending the school, and the local school board shall be fully authorized to offer any such courses to students attending the school. The State Board of Education may develop and issue necessary regulations for the coordination of such courses for these students, the preparation and transfer of transcripts, and the reimbursement of any costs incurred by the school district for providing such services.

(5) The board may enter into agreements with public school districts to authorize students enrolled in such school districts to participate in the fine arts programs at the school to the extent that adequate space is available. The parent or guardian of any student participating in fine arts programs at the school under this subsection shall be responsible for transporting the student to and from the school.

SOURCES: Laws, 1999, ch. 591, § 3, eff from and after July 1, 1999.

Cross References — State Board of Education, see Miss. Const. Art. 8, § 203.
State Board of Education generally, see §§ 37-1-1 et seq.
State Department of Education generally, see §§ 37-3-1 et seq.
Mississippi Arts Commission generally, see §§ 39-11-1 et seq.

ATTORNEY GENERAL OPINIONS

Assuming that funds have been appropriated for such purposes, the State Board of Education has authority to contract with one or more of the state institutions of higher learning to carry out various duties and functions relating to the operation of the schools. Chaney, July 30, 2004, A.G. Op. 04-0352.

§ 37-140-7. Director of school.

Subject to the availability of funding appropriated therefor, the board may hire a director of the school, who shall serve at the will and pleasure of the board. The director shall be the chief administrative officer of the school and shall administer the school in accordance with the policies established by the board. The director shall be responsible for those administrative duties and functions prescribed by the board, and the board, in its discretion, may delegate to the director such powers and duties as it deems appropriate.

SOURCES: Laws, 1999, ch. 591, § 4, eff from and after July 1, 1999.

ATTORNEY GENERAL OPINIONS

Assuming that funds have been appropriated for such purposes, the State Board of Education has authority to contract with one or more of the state institutions of higher learning to carry out various duties and functions relating to the operation of the schools. Chaney, July 30, 2004, A.G. Op. 04-0352.

§ 37-140-9. Promulgation of rules and regulations; emphasis of school on performing, visual, and literary arts.

The board shall be the exclusive governing body of the school and shall promulgate rules and regulations required for the administration and operation of the school. The emphasis of the school shall be on the education and training of students in the performing, visual and literary arts and in the humanities, but this emphasis shall not preclude the teaching of those liberal arts and science courses, math and science deemed necessary by the board to provide students with a well-rounded education.

SOURCES: Laws, 1999, ch. 591, § 5, eff from and after July 1, 1999.

§ 37-140-11. Preparation of annual budget; authority to receive contributions.

The board shall prepare the annual budget for the school. For the operation and support of the school, the board may receive contributions, donations, gifts, bequests of money, other forms of financial assistance and property, equipment, materials or manpower from persons, foundations, trust funds, corporations, organizations and other sources, public or private, to be expended and utilized by the board in carrying out this chapter.

SOURCES: Laws, 1999, ch. 591, § 6, eff from and after July 1, 1999.

§ 37-140-13. Expenditures.

All expenditures for the school shall be paid by the State Treasurer on warrants issued by the State Fiscal Officer, and the State Fiscal Officer shall issue his warrants upon requisition signed by the proper person, officer or officers.

SOURCES: Laws, 1999, ch. 591, § 7, eff from and after July 1, 1999.

Editor's Note — Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

§ 37-140-15. Authority to contract with professional organizations for instruction and educational services.

(1) The State Board of Education may enter into agreements with the Mississippi Symphony Orchestra for providing classical music educational services to students in Grades Kindergarten through 12 at the Mississippi School of the Arts or at any other public school facility in Mississippi, subject to specific appropriation therefor by the Legislature. Such educational services shall include: (a) music history, music instrument, and music performance instruction in the classroom; (b) symphony concerts for the students, programmed to support and enhance the teaching of history, literature and

science; (c) chamber ensemble and chamber orchestra performances where members serve as educators as well as performers; (d) organizing and developing student performing ensembles, where members serve as music instrument instructors, conductors and performers; (e) symphony concerts for students, parents and other residents to enhance the position of the school as center of the local community; and (f) other services to be determined by agreement.

(2) The State Board of Education is encouraged to enter into contractual agreements with professional arts organizations, including the Mississippi Museum of Art, New Stage Theatre and the Mississippi Symphony Orchestra, for providing instruction, concerts, exhibits, performances and other outreach programs at the Mississippi School of the Arts or at any other public school facility in Mississippi.

SOURCES: Laws, 1999, ch. 591, § 8, eff from and after July 1, 1999.

§ 37-140-17. "Helen Furlow Scruggs Y Hut" designated.

From and after July 1, 2003, the "Y Hut," located on the campus of the Mississippi School of the Arts, shall be renamed the "Helen Furlow Scruggs Y Hut."

SOURCES: Laws, 2003, ch. 365, § 1, eff from and after July 1, 2003.

CHAPTER 141

The University Research Center Act of 1988

In General 37-141-1
Regional Initiatives Program 37-141-51

IN GENERAL

Sec.
37-141-1. Short title.
37-141-3. University Research Center created; powers and duties of Commissioner of Higher Education.
37-141-5. Main office building designated "Paul B. Johnson, Jr. Building".
37-141-6. Authorization to charge state agencies and other entities occupying research and development center for certain services.
37-141-7. Functions of center.
37-141-9. Financing; "University Research Center Fund".
37-141-11. Coordinated community and statewide planning; "planning fund".
37-141-13. Board of Trustees of State Institutions of Higher Learning to administrate center; center to advise government; programs and projects.
37-141-15. Branch operations.
37-141-17. Annual report.
37-141-19. Appointees at each university responsible for economic development activities.
37-141-21. Powers and duties of director of center; expenditures.
37-141-23. Attorney General as legal counsel.

Cross References — Regional Initiatives Program within University Research Center, see § 37-141-51 et seq.

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§ 37-141-1. Short title.

This chapter shall be known and may be cited as "The University Research Center Act of 1988."

SOURCES: Laws, 1988, ch. 518, § 2, eff from and after July 1, 1988.

Cross References — Constitutional provisions pertaining to institutions of higher learning, see Miss. Const. Art. 8, § 213A.

§ 37-141-3. University Research Center created; powers and duties of Commissioner of Higher Education.

(1) There is hereby created the University Research Center, as an agency of the State of Mississippi, hereinafter referred to as the "center," which shall have full authority to contract and to be contracted with. The Commissioner of Higher Education shall serve as the Director for the center.

(2) The center shall be under the direction and management of the Board of Trustees of State Institutions of Higher Learning. The Board of Trustees of State Institutions of Higher Learning shall, in its discretion, obtain fidelity bonds and determine who and what should be covered thereby and the amount of such bonds.

(3) The Commissioner of Higher Education, with the approval of the Board of Trustees of State Institutions of Higher Learning, shall appoint and employ such staff and employees as he deems necessary to carry out the objectives and purposes of this chapter and Section 57-63-17 and may establish the organizational structure of the center, which shall include the creation of any divisions necessary to implement the duties assigned to the center. It is specifically provided that the commissioner establish such units within the center as he deems necessary to include but not limited to areas of economic analysis, economic forecasting, long range economic development planning, research, grants, services and university and agency coordination and reporting.

(4) The Commissioner of Higher Education may consolidate the following functions of the central office of the Board of Trustees of State Institutions of Higher Learning and the University Research Center:

(a) Administrative services;
(b) Libraries;
(c) Computer services.

Consolidation of such services shall not affect the duty otherwise imposed by statute upon the University Research Center to assist state agencies with support services including, but not limited to, printing, data processing and libraries. The commissioner shall establish and maintain a branch library at the Department of Economic Development suitable for the economic development research needs of the department. The branch library shall be available for use by the public and by private development organizations.

(5) The Commissioner of Higher Education shall use savings realized through personnel attrition and other economies created by the reorganization effected in Senate Bill No. 2925, 1988 Regular Session [Laws, 1988, Chapter 518] to establish a special account in the University Research Center out of which funds may be expended to conduct priority research projects by contracting with universities, agencies and individuals.

SOURCES: Laws, 1988, ch. 518, § 3, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides that the term "Mississippi Department of Economic Development" shall mean the "Department of Economic and Community Development".

Senate Bill No. 2925, which was codified as Chapter 518, Laws, 1988, has been allocated to numerous sections as indicated in Table B, of Volume 22 containing Statutory Tables.

Cross References — Constitutional provisions pertaining to institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Provisions concerning the Board of Trustees of State Institutions of Higher Learning, see §§ 37-101-1 et seq.

Commissioner of Higher Education, see § 37-101-7.

Regional Initiatives Program created within the University Research Center, see §§ 37-141-51 et seq.

Special Task Force for Economic Development Planning mission and role, see § 57-63-17.

§ 37-141-5. Main office building designated "Paul B. Johnson, Jr. Building".

The main office building of the University Research Center and the Department of Economic Development in the City of Jackson shall be known and designated as the Paul B. Johnson, Jr. Building. The Board of Trustees of State Institutions of Higher Learning and the Governor's Office of General Services shall coordinate and cooperate to effect the relocation of the Department of Economic Development to the Paul B. Johnson, Jr. Building and any other related agency relocations necessary to accomplish the requirement of this section if such relocation is feasible. If such relocation of the Department of Economic Development to the Paul B. Johnson, Jr. Building is not feasible because of space limitations, the Governor's Office of General Services shall coordinate the relocation of such department to some other location and shall, if possible, secure the amount of space necessary to also place the University Research Center in the same location with the department.

The Office of General Services shall provide proper signs to be placed on the building in accordance with this section.

SOURCES: Laws, 1988, ch. 518, § 4, eff from and after July 1, 1988.

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 57-1-54 provides that the term "Mississippi Department of Economic Development" shall mean the "Department of Economic and Community Development".

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

§ 37-141-6. Authorization to charge state agencies and other entities occupying research and development center for certain services.

The Board of Trustees of State Institutions of Higher Learning shall be authorized to charge state agencies and other entities that occupy portions of the Paul B. Johnson, Jr., Building, the Edsel E. Thrash Universities Center and the ETV Building for utilities, maintenance and security. Entities shall be charged at a rate of One Dollar and Fifty Cents ($1.50) per square foot for services provided by the board.

SOURCES: Laws, 2006, ch. 596, § 4, eff from and after July 1, 2006.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Designation of the Paul B. Johnson, Jr. Building, see § 37-141-5.

§ 37-141-7. Functions of center.

It is hereby declared to be the intent of the Legislature that the functions of the center shall include, but not be limited to, the following:

(a) Undertaking selected applied research projects with a permanent research staff, augmented by specialists from universities and colleges, government agencies and private firms, assisted by graduate students.

(b) Relating, when applicable, public service-related research and technical assistance activities at all state universities to the overall statewide economic development plan.

(c) Coordinating economic development related activities among all state universities.

(d) Providing a computer facility for use by all educational institutions and government agencies.

(e) Maintaining current information on research projects in the state; on scientific and research personnel; on research expenditures and sources of funds; on research programs of agencies and institutions outside the state which bear upon Mississippi development; publishing annually a catalogue of this information; and otherwise functioning as a research clearinghouse for the State of Mississippi.

(f) Developing a list of priority research projects that would have significant contribution to advancement of economic development efforts in the state.

(g) Coordinating with universities and other entities in the state to promote completion of the priority economic development related research projects with economic development potential and advising and assisting in the securing of needed research funding.

(h) Contracting with universities and other entities to effect needed priority economic development related research projects.

(i) Providing printing and data processing support to the Department of Economic Development.

(j) Identifying all federal funds that flow into Mississippi for any and all purposes, making comparisons with other states and preparing appropriate analyses to identify sources of federal funds where potential exists for attracting and obtaining larger amounts of federal funds for the state.

(k) Develop a system whereby economic development related research results can be disseminated to public and private entities for the purpose of enhancing economic development efforts, particularly at the local level.

(*l*) Assisting institutions, organizations and firms in identifying and obtaining research funds and other grants from public and private sources.

(m) Developing an econometric model of Mississippi designed to forecast various sectors of the Mississippi economy.

(n) Supporting and utilizing the Mississippi Automated Resource Information System (MARIS) to accomplish its objectives of gathering, maintaining and disseminating information and providing research assistance.

(o) Performing other duties and responsibilities as assigned by the Commissioner of Higher Education.

(p) Carrying out the provisions of Sections 37-141-51 through 37-141-57.

SOURCES: Laws, 1988, ch. 518, § 5; Laws, 1989, ch. 540, § 4; Laws, 1999, ch. 379, § 5, eff from and after July 1, 1999.

Editor's Note — Section 5, ch. 540, Laws of 1989, provides as follows:

"SECTION 5. All rules and regulations adopted and promulgated pursuant to this act by the State Treasurer shall be submitted to the Executive Director of the Department of Finance and Administration for approval prior to their implementation."

Section 57-1-54 provides that the term "Mississippi Department of Economic Development" shall mean the "Department of Economic and Community Development".

Cross References — Establishment and purpose of Regional Initiatives Program, see § 37-141-51.

Mississippi Automated Resource Information System (MARIS), see § 57-13-23.

Cooperation with the Food Technology Laboratory, see § 57-19-13.

State Chemical Laboratory, see § 57-21-9.

Cooperation with the research institute of pharmaceutical sciences, see § 57-23-13.

Energy development fund, see § 57-39-39.

Mississippi Urban Research Center, see § 57-55-17.

Mississippi Technology Transfer Office, see § 57-56-1.

Mississippi Business Investment Act, see § 57-61-9.

Statewide Economic Development and Planning Act, see §§ 57-63-1 et seq.

Required three-year plan for the maintenance, construction, reconstruction and relocation of the state highway system, see § 65-1-141.

Consultation with the Public Service Commission concerning the long range needs for expansion of facilities and the generation of electricity, see § 77-3-14.

§ 37-141-9. Financing; "University Research Center Fund".

(1) The center is authorized and empowered to solicit and accept financial support from sources other than the state, including private sources and foundations. All funds received shall be deposited upon receipt thereof into a special fund in the State Treasury to be known and designated as the "University Research Center Fund." Expenditures from such special fund shall be made in the manner as provided in subsection (3) of Section 37-141-21. Any funds received and deposited from sources other than the state to the special fund may be utilized for research grants to the center or to other Mississippi institutions; for graduate research fellowships; for buildings and equipment; for library facilities; for permanent exhibits; for advanced studies by research personnel of the center or any of the institutions of higher learning; for honoraria for visiting lecturers; and for like purposes.

(2) From and after July 1, 1988, any monies remaining in the special fund in the State Treasury known as the Research and Development Center Fund shall be transferred into the University Research Center Fund created in subsection (1) of this section.

SOURCES: Laws, 1988, ch. 518, § 6, eff from and after July 1, 1988.

§ 37-141-11. Coordinated community and statewide planning; "planning fund".

The Department of Economic Development is hereby authorized to cooperate with the planning commissions and development boards, or other similar agencies of other states, and with county, municipal and regional planning commissions or other agencies thereof, for the purposes of securing coordinated community and statewide planning within this state. The Department of Economic Development is further authorized to provide services to include, but not be limited to, planning assistance to cities and other political subdivisions within the state and county; joint municipal, county, regional and metropolitan commissions in the solution of their planning problems; and to contract for, receive and expend federal, state and other funds, whether private or public, for such planning activities, and to that end, there is hereby created within the Department of Economic Development a special fund designated as the "planning fund" to be kept separate and apart from all other funds received by the Department of Economic Development and into which all funds received for planning purposes shall be deposited. Planning assistance, as used in this chapter, shall include the preparation of population, land use, traffic, parking and economic base studies, the preparation of proposed subdivision regulations and zoning ordinances, and the development of plans to guide public and private development.

SOURCES: Laws, 1988, ch. 518, § 7, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides that the term "Mississippi Department of Economic Development" shall mean the "Department of Economic and Community Development".

§ 37-141-13. Board of Trustees of State Institutions of Higher Learning to administrate center; center to advise government; programs and projects.

(1) The Board of Trustees of State Institutions of Higher Learning shall have responsibility for the administration of the center. By so designating the board of trustees as administrator for the center, the Legislature hereby expresses its intent that the center shall have a relationship of close cooperation and coordination with the several universities but that the center shall not be under the control or influence of any single institution. With the approval of the board of trustees, academically eligible center staff may hold appointment to faculties of state universities and university faculty members may be assigned to the center.

(2) The Mississippi Department of Economic Development, being the economic development agency for the state, shall advise on the programs and projects of the center focused upon economic development.

(3) The center may advise the various agencies and departments of state government regarding internal research needs and programs and shall assist in the establishment of such programs where needed. These programs shall be

coordinated by the center in order to minimize duplication of effort, to maximize utilization of data and equipment and to standardize procedures for the more efficient pursuit of research.

(4) Communities, counties, special-purpose districts, multicounty area development groupings and other such organizations may call upon the center for informational services. Specific research projects may be undertaken by the center for such organizations on a contract basis.

(5) The center may provide advice and counsel, consistent with its duties and responsibilities, to the private business community. Consultation and information may also be made available to other segments of the private business community. Advice and assistance for the establishment of research programs within business organizations may be provided by the center. Specific research projects may be undertaken by the center for private business on a contract basis. The center may solicit and accept grants and other financial aid or support from private sources.

SOURCES: Laws, 1988, ch. 518, § 8, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides that the term "Mississippi Department of Economic Development" shall mean the "Department of Economic and Community Development".

Cross References — Provisions concerning the Board of Trustees of State Institutions of Higher Learning, see §§ 37-101-1 et seq.

§ 37-141-15. Branch operations.

With the approval of the Board of Trustees of State Institutions of Higher Learning, the center may establish and staff branch operations at various universities within the state.

SOURCES: Laws, 1988, ch. 518, § 9, eff from and after July 1, 1988.

Cross References — Provisions concerning the Board of Trustees of State Institutions of Higher Learning, see §§ 37-101-1 et seq.

§ 37-141-17. Annual report.

The center, on behalf of the Board of Trustees of State Institutions of Higher Learning, shall prepare an annual report of economic development activities of those agencies and institutions subject to the Board of Trustees. The report shall describe:

(a) Economic development efforts and accomplishments of the University Research Center, each university, and each institute.

(b) Efforts and accomplishments of the center in coordinating economic development activities among the universities.

(c) Recommendations of the center for coordination and utilization of university resources in economic development, for university-based initiatives in economic development, and for funding related to economic development and plans of the universities.

(d) Assistance rendered to the Department of Economic Development by the center and each university.

(e) Activities and accomplishments of staff assigned to planning and development districts pursuant to Section 37-141-19.

(f) Any other information which the center wishes to present.

The annual report shall be submitted to the Governor and the Joint Legislative Budget Committee not later than July 1 of each year.

SOURCES: Laws, 1988, ch. 518, § 10, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides that the term "Mississippi Department of Economic Development" shall mean the "Department of Economic and Community Development".

Cross References — Provisions concerning the Board of Trustees of State Institutions of Higher Learning, see §§ 37-101-1 et seq.

§ 37-141-19. Appointees at each university responsible for economic development activities.

The Board of Trustees of State Institutions of Higher Learning shall require that the president of each university under its jurisdiction designate, at the level of vice-president, a person responsible for economic development activities at the university. The person so designated shall be the primary contact at each university for the center in carrying out its responsibilities related to coordinating, assisting, monitoring and reporting on economic development activities at the universities.

SOURCES: Laws, 1988, ch. 518, § 11, eff from and after July 1, 1988.

Cross References — Provisions concerning the Board of Trustees of State Institutions of Higher Learning, see §§ 37-101-1 et seq.

Contents of the annual report to be prepared by the center, see § 37-141-17.

§ 37-141-21. Powers and duties of director of center; expenditures.

(1) The director of the center, subject to the approval of the Board of Trustees of State Institutions of Higher Learning, shall fix the salaries and wages of employees of the center, shall reimburse employees for actual expenses incurred in the performance of their duties, and may approve receipt by employees of additional income payments from grants, fellowships and other sources.

(2) The director of the center, upon approval of the board of trustees, may contract with universities and colleges, with individuals and with public or private research organizations for their services and, under the same approval, may contract for performance by the center of services to governmental subdivisions of the state, to United States government departments and agencies, to area development organizations, to trade associations and other similar groups of public or private nature, and to private business enterprises,

and may set fees for such services. Upon approval of the board of trustees, the center may establish intern programs to provide experience that supplements the education of students enrolled in state institutions of higher learning.

(3) Expenditures by and for the center and its branches shall be paid by the State Treasurer out of the funds appropriated to carry out the provisions of this chapter, upon warrant issued by the State Fiscal Management Board; and such board shall issue its warrant upon requisition signed by the director of the center, in the manner provided by law. Full and complete accounting shall be kept and made by the center for all funds received and expended by it. Representatives of the office of the State Auditor annually shall audit the expenditures of funds received by the center from all sources, and the auditor shall make a complete and detailed report of such audit to the Legislature.

SOURCES: Laws, 1988, ch. 518, § 12, eff from and after July 1, 1988.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Cross References — Provisions concerning the Board of Trustees of State Institutions of Higher Learning, see §§ 37-101-1 et seq.

The creation of the "University Research Center Fund," see § 37-141-9.

§ 37-141-23. Attorney General as legal counsel.

The Attorney General of the state shall be legal counsel to the University Research Center.

SOURCES: Laws, 1988, ch. 518, § 13, eff from and after July 1, 1988.

Cross References — University Research Center created, see § 37-141-3.

REGIONAL INITIATIVES PROGRAM

Sec.
37-141-51. Establishment; purpose.
37-141-53. Application for funding.
37-141-55. Criteria for funding.
37-141-57. Promulgation of rules and regulations.

Cross References — University Research Center, generally, see § 37-141-1 et seq.

§ 37-141-51. Establishment; purpose.

(1) There is hereby created the Regional Initiatives Program within the University Research Center as created by Section 37-141-1 et seq.

(2) The program shall provide financial assistance to counties through grants to substate economic development organizations or an aggregate of such organizations to carry out specific projects that will augment the objectives and strategies of the statewide economic development plan in accordance with the Statewide Planning Act of 1987.

(3) Counties may designate substate economic development organizations to include but not limited to economic development organizations such as local chambers of commerce, local economic development authorities, planning development districts, multicounty organizations funded by local governing authorities and the federal government or other organization deemed appropriate.

SOURCES: Laws, 1999, ch. 379, § 1, eff from and after July 1, 1999.

Cross References — Functions of University Research Center, see § 37-141-7.

§ 37-141-53. Application for funding.

(1) Applications for financial assistance shall be made to the University Research Center.

(2) Applicants may request up to seventy-five percent (75%) of the total projects cost. The applicant shall provide at least twenty-five percent (25%) of the total cost, twelve and one-half percent (12-½%) of which may be in in-kind funding.

SOURCES: Laws, 1999, ch. 379, § 2, eff from and after July 1, 1999.

§ 37-141-55. Criteria for funding.

(1) No request for funds shall be granted unless the project will have a positive economic impact on at least an entire county.

(2) No funding provided by the University Research Center shall be used to fund operating costs.

SOURCES: Laws, 1999, ch. 379, § 3, eff from and after July 1, 1999.

§ 37-141-57. Promulgation of rules and regulations.

The University Research Center shall develop rules and regulations necessary to carry out the provisions of this chapter.

SOURCES: Laws, 1999, ch. 379, § 4, eff from and after July 1, 1999.

CHAPTER 143

Omnibus Loan or Scholarship Act of 1991

Sec.
37-143-1 through 37-143-21. Repealed

§§ 37-143-1 through 37-143-21. Repealed.

Repealed by Laws of 2014, ch. 538, § 37, effective July 1, 2014.

§ 37-143-1. [Laws, 1991, ch. 547, § 1, eff from and after July 1, 1991.]

§ 37-143-3. [Laws, 1991, ch. 547, § 2, eff from and after July 1, 1991.]

§ 37-143-5. [Laws, 1991, ch. 547, § 3, eff from and after July 1, 1991.]

§ 37-143-6. [Laws, 2000, ch. 534, § 1; Laws, 2001, ch. 450, § 1; Laws, 2003, ch. 391, § 1, eff from and after July 1, 2003.]

§ 37-143-7. [Laws, 1991, ch. 547, § 4, eff from and after July 1, 1991.].

§ 37-143-9. [Laws, 1991, ch. 547, § 5; Laws, 1993, ch. 593, § 2, eff from and after July 1, 1993.]

§ 37-143-11. [Laws, 1991, ch. 547, § 6; Laws, 1993, ch. 593, § 1; Laws, 1998, ch. 544, § 3; Laws, 2002, ch. 587, § 2; Laws, 2004, ch. 409, § 2; Laws, 2013, ch. 497, § 85, eff from and after July 1, 2013.]

§ 37-143-12. [Laws, 2012, ch. 491, § 1; Laws, 2013, ch. 497, § 86, eff from and after July 1, 2013.]

§ 37-143-13. [Laws, 1991, ch. 547, § 7; Laws, 1992, ch. 365, § 1; Laws, 2001, ch. 388, § 1; Laws, 2010, ch. 476, § 16, eff from and after passage (approved Apr. 1, 2010.)]

§ 37-143-14. [Laws, 2007, ch. 544, § 1, eff from and after July 1, 2007.].

§ 37-143-15. [Laws, 1991, ch. 547, § 8; Laws, 1996, ch. 346, § 1; Laws, 2010, ch. 554, § 3, eff from and after July 1, 2011.]

§ 37-143-17. [Laws, 1991, ch. 547, § 9, eff from and after July 1, 1991.]

§ 37-143-19. [Laws, 1991, ch. 547, § 10; Laws, 2012, ch. 315, § 3, eff from and after passage (approved Apr. 3, 2012.)]

§ 37-143-21. [Laws, 1991, ch. 547, § 11, eff from and after July 1, 1991.].

Editor's Note — Laws of 1991, ch. 547, § 18, effective July 1, 1991, provides as follows:

"SECTION 18. The Board of Trustees of State Institutions of Higher Learning is hereby authorized to honor all contracts and commitments for the provision of loans or scholarships existing under prior programs repealed by this act."

Former § 37-143-1 provided the short title for the Omnibus Loan or Scholarship Act of 1991.

Former § 37-143-3 provided legislative findings and declarations of purpose relating to the Omnibus Loan or Scholarship Act of 1991.

Former § 37-143-5 created the medical loan or scholarship program. For present similar provisions, see § 37-106-61.

Former § 37-143-6 created a Medical Education Scholarship and Loan Repayment Program for applicants agreeing to practice family medicine in critical needs areas. For present similar provisions, see § 37-106-61.

Former § 37-143-7 created the dental loan or scholarship program. For present similar provisions, see § 37-106-63.

Former § 37-143-9 created created a program for advanced study in nursing. For present similar provisions, see § 37-106-59.

Former § 37-143-11 established the William F. Winter Teacher Scholar Loan Program. For present similar provisions, see § 37-106-57.

Former § 37-143-13 established a health care professions' loan program. For present similar provisions, see § 37-106-67.

Former § 37-143-14 established a family protection specialist social worker scholarship program. For present similar provisions, see § 37-106-69.

Former § 37-143-15 prescribed the powers and duties of the board of trustees of state institutions of higher learning with respect to loan or scholarship programs.

Former § 37-143-17 related to the establishment of a loan or scholarship mechanism employing agreements to repay private sector loans for education or guaranteed student loans. For present similar provisions, see § 37-106-49.

Former § 37-143-19 related to the establishment of a consolidated revolving loan fund to provide money for the operation of loan or scholarship programs. For present similar provisions, see § 37-106-51.

Former § 37-143-21 required the Board of Trustees of State Institutions of Higher Learning to submit an anuual report to the Legislature summarizing the loan or scholarship programs.

CHAPTER 144

Mississippi Rural Physicians Scholarship Program

Sec.

37-144-1. Mississippi Rural Physicians Program established.
37-144-3. Mississippi Rural Physicians Scholarship Commission; composition; advisory committee; vacancies; meetings; compensation; program funding.
37-144-5. Powers and duties of commission.
37-144-7. Identification and recruitment of undergraduate participants; designation of underserved or rural area; applicant qualifications; maximum number of new admissions per year.
37-144-9. Participants to adhere to program policies and practices to remain in program; forgiveness or repayment of financial assistance under certain circumstances.
37-144-11. Participants may apply to any accredited medical or osteopathic school; early admissions process for students applying to University of Mississippi School of Medicine.
37-144-13. Ongoing financial support for program participants who attend medical or osteopathic school; preference for ongoing support to University of Mississippi School of Medicine students; students obligated for one year of practice for every year of financial assistance received.
37-144-15. Ongoing financial support for students entering family medicine or other generalist residency programs.
37-144-17. Program participants required to enter practice of medicine in health professional shortage, rural or underserved area upon completion of residency for number of years corresponding to number of years assistance received up to maximum of five years; breach of contract; liability for repayment.
37-144-19. Initial practice entry support system for program participants.
37-144-21. Limitation of program and commission governing and administrative authority.

§ 37-144-1. Mississippi Rural Physicians Program established.

There is established the Mississippi Rural Physicians Scholarship Program for the purpose of identifying and recruiting qualified university and college students from rural areas of the state for medical or osteopathic school matriculation. The program shall consist of three (3) distinct phases through which participants will progress, including:

(a) Undergraduate premedical education;

(b) Medical or osteopathic school and residency; and

(c) Post-residency entry into medical practice in a rural or underserved area of the State of Mississippi.

SOURCES: Laws, 2007, ch. 554, § 1, eff from and after passage (approved Apr. 20, 2007.)

§ 37-144-3. Mississippi Rural Physicians Scholarship Commission; composition; advisory committee; vacancies; meetings; compensation; program funding.

(1) The Mississippi Rural Physicians Scholarship Program shall be administered by a commission to be known as the "Mississippi Rural Physicians Scholarship Commission." The commission shall be directed by a board composed of the following members:

(a) Two (2) generalist physicians appointed by and from the membership of the Mississippi State Medical Association, the term of which shall be three (3) years and may be reappointed for one (1) additional term;

(b) One (1) generalist physician appointed by and from the membership of each of the following organizations, the term of which shall be three (3) years and may be reappointed for one (1) additional term:

(i) Mississippi Academy of Family Physicians;

(ii) Mississippi Chapter, American College of Physicians;

(iii) Mississippi Chapter, American Academy of Pediatrics;

(iv) Mississippi Chapter, American College of OB-GYN;

(v) Mississippi Medical and Surgical Association;

(vi) Mississippi Osteopathic Association;

(c) Two (2) designees of the Dean of the University of Mississippi School of Medicine whose terms are at the discretion of the dean, at least one (1) of whom is a member of the University of Mississippi School of Medicine Admissions Committee;

(d) Two (2) medical students, one (1) of whom shall be selected yearly through a process developed by the dean of the School of Medicine in consultation with the chairs of the departments of family medicine, internal medicine, OB-GYN, and pediatrics, and one (1) of whom shall be nominated for a one-year term by the Mississippi Chapter of the Student National Medical Association and approved by the Dean of the University of Mississippi School of Medicine;

(e) A member of the Board of Trustees of State Institutions of Higher Learning; and

(f) The Chair of the Department of Family Medicine at the University of Mississippi School of Medicine.

(2) The premedical advisors from the accredited four-year colleges and universities in the state and the directors or designees of the primary care generalist training programs in the State of Mississippi shall comprise an advisory committee to the commission to assist the commission in its administration of the Mississippi Rural Physicians Scholarship Program.

(3) Vacancies on the commission must be filled in a manner consistent with the original appointments.

(4) All appointments to the commission must be made no later than September 1, 2007. After the members are appointed, the Chair of the Department of Family Medicine shall set a date for the organizational meeting that is mutually acceptable to the majority of the commission members. The

organizational meeting shall be for the purposes of organizing the commission and establishing rules for transacting its business. A majority of the members of the commission shall constitute a quorum at all commission meetings. An affirmative vote of a majority of the members present and voting shall be required in the adoption of rules, reports and in any other actions taken by the commission. At the organizational meeting, the commission shall elect a chair and vice chair from the members appointed according to paragraphs (a) through (d) of subsection (1). The chair shall serve for a term of two (2) years, upon the expiration of which the vice chair shall assume the office of chair.

(5) After the organizational meeting, the commission shall hold no less than two (2) meetings annually.

(6) The commission may form an executive committee for the purpose of transacting business that must be conducted before the next regularly scheduled meeting of the commission. All actions taken by the executive committee must be ratified by the commission at its next regularly scheduled meeting.

(7) Members of the commission shall serve without compensation but may be reimbursed, subject to the availability of funding, for mileage and actual and necessary expenses incurred in attending meetings of the commission.

(8) Funding for the establishment and continued operation of the program and commission shall be appropriated out of any money in the General Fund not already appropriated to the University of Mississippi Medical Center.

SOURCES: Laws, 2007, ch. 554, § 2, eff from and after passage (approved Apr. 20, 2007.)

Cross References — General powers and duties of Board of Trustees of State Institutions of Higher Learning, see § 37-101-15.

§ 37-144-5. Powers and duties of commission.

The Mississippi Rural Physicians Scholarship Commission shall have the following powers and duties:

(a) Developing the administrative policy for the commission and the Mississippi Rural Physicians Scholarship Program;

(b) Promulgating rules and regulations, with the advice and consent of the University of Mississippi Medical Center, pertaining to the implementation and operation of the Rural Physicians Scholarship Program;

(c) Developing and implementing strategies and activities for the identification and recruitment of students and for marketing the program and for the implementation of the program. In developing these strategies, the board shall seek the input of various organizations and entities, including the Mississippi State Medical Association, the Mississippi Academy of Family Physicians, the Mississippi Chapters of the American College of Physicians, the American Academy of Pediatrics, the American College of OB-GYN, the Mississippi Medical and Surgical Association and the Mississippi Osteopathic Medicine Association;

(d) Establishing a budget, with the advice and consent of the University of Mississippi Medical Center, to support the activities of the program and periodically reviewing and if appropriate, revising, the scholarship and other stipends offered through the program;

(e) Advising the University of Mississippi Medical Center regarding hiring an executive director and support staff necessary for the commission's work. The commission shall nominate at least two (2) individuals to serve as executive director;

(f) Reviewing participants progress in the program and mentoring students and physicians participating in the program;

(g) Developing and participating in programs that provide initial practice support in collaboration with other interested professional organizations;

(h) The commission shall have the authority through use of generally applicable definitions, to designate an area of the state as underserved or rural. The method by which these designations shall be made shall be contained in rules and regulations promulgated by the commission.

SOURCES: Laws, 2007, ch. 554, § 3, eff from and after passage (approved Apr. 20, 2007.)

§ 37-144-7. Identification and recruitment of undergraduate participants; designation of underserved or rural area; applicant qualifications; maximum number of new admissions per year.

(1) The commission shall develop and implement policies and procedures designed to recruit, identify and enroll undergraduate students who demonstrate necessary interest, commitment, aptitude and academic achievement to pursue careers as family physicians or other generalist physicians in rural or medically underserved areas of Mississippi, and to develop and implement the programs designed to foster successful entry of participants into medical school, completion of medical school, enrollment into and completion of family medicine or other generalist residency, and establishment and maintenance of a career in family medicine or other generalist specialty in a rural or underserved area of Mississippi.

(2) The commission shall have the authority through use of generally applicable definitions, to designate an area of the state as underserved or rural.

(3) The commission, in conjunction with the University of Mississippi Medical Center, shall have the authority to provide students selected for scholarship funding with faculty mentors and other programs designed to enhance the students' likelihood of admission to the medical school. The commission and the University of Mississippi Medical Center will develop coursework that will provide scholarship students with the skills necessary for sustained and successful medical practice in rural Mississippi.

(4) Each applicant for admission to the program must submit an application to the commission that conforms to requirements established by the commission.

(5) In selecting participants for the program, the board may only accept an applicant if his or her academic record and other characteristics, if given consideration by the University of Mississippi School of Medicine Admissions Committee, would be considered credible and competitive.

(6) An applicant for the program may be admitted only upon a majority vote of the members of the commission.

(7) Not less than fifteen (15) students will be admitted to the Mississippi Rural Physicians Scholarship Program each year, provided that there are fifteen (15) or more qualified applicants for the program.

SOURCES: Laws, 2007, ch. 554, § 4; Laws, 2013, ch. 491, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment in (7), substituted "Not less than" for "Up to" and "provided that there are fifteen (15) or more qualified applicants for the program" for "beginning with the 2008-2009 academic year."

§ 37-144-9. Participants to adhere to program policies and practices to remain in program; forgiveness or repayment of financial assistance under certain circumstances.

(1) Participants must adhere to the policies and practices as stipulated by the commission to continue in the program.

(2) Students in the program may receive tuition or other financial support that may be provided by the commission. If a student in the program is admitted to and completes medical or osteopathic school, any tuition or other educational and living support provided to the student by the commission will be forgiven. However, if the student is not successful in being accepted into medical or osteopathic school within three (3) years of entry into the Mississippi Rural Physicians Scholarship Program, or if the student otherwise breaches his or her agreement with the commission, all financial assistance provided to the student must be repaid according to policies adopted by the board.

SOURCES: Laws, 2007, ch. 554, § 5, eff from and after passage (approved Apr. 20, 2007.)

§ 37-144-11. Participants may apply to any accredited medical or osteopathic school; early admissions process for students applying to University of Mississippi School of Medicine.

(1) Students in the program may apply to any medical or osteopathic school that is accredited by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association (AOA).

(2) Students in the program seeking admission to the University of Mississippi School of Medicine shall be eligible for a special admissions process pursuant to criteria established by the School of Medicine Admissions Com-

mittee which will include special consideration of the attributes of participation in the program.

(3) In carrying out the admissions process developed for the Mississippi Rural Physicians Scholarship Program participants under this section, the goal is for the program to work with the School of Medicine to enhance the capability of participants to successfully enter and complete medical school, train in family medicine or other generalist primary care specialty and enter practice in rural or underserved areas in Mississippi. To the extent feasible, the early admissions process should be completed before November 1 of the year preceding a student's admission to medical school.

SOURCES: Laws, 2007, ch. 554, § 6, eff from and after passage (approved Apr. 20, 2007.)

Cross References — University of Mississippi School of Medicine generally, see §§ 37-115-21 through 37-115-35.

§ 37-144-13. Ongoing financial support for program participants who attend medical or osteopathic school; preference for ongoing support to University of Mississippi School of Medicine students; students obligated for one year of practice for every year of financial assistance received.

(1) Subject to the availability of funding, students in the program who successfully matriculate to medical or osteopathic school are eligible for ongoing financial support in accordance with policies and requirements of the commission and in accordance with the applicable laws and regulations. The number of students to be supported at the University of Mississippi School of Medicine and at other schools will be established by policy prescribed by the commission.

(2) Subject to the availability of funding, students enrolled at the University of Mississippi School of Medicine may receive tuition support, funding to assist with the cost of books and a living stipend, as prescribed by policy of the commission and in accordance with applicable regulations. Preferences for ongoing funding must be given to those students admitted to the University of Mississippi School of Medicine.

(3) For each year that a student in medical or osteopathic school receives financial assistance, the student is obligated for one (1) year of practice as a primary care physician in a rural or underserved area in Mississippi. Breach of the agreement at any stage of training shall invoke the repayment of all financial assistance provided to the student through the Mississippi Rural Physicians Scholarship Program, including assistance provided during undergraduate school, as well as in medical or osteopathic school, along with other penalties that may be prescribed in policy by the commission.

SOURCES: Laws, 2007, ch. 554, § 7, eff from and after passage (approved Apr. 20, 2007.)

Cross References — University of Mississippi School of Medicine generally, see §§ 37-115-21 through 37-115-35.

§ 37-144-15. Ongoing financial support for students entering family medicine or other generalist residency programs.

Medical and osteopathic students in the program must enter family medicine or other generalist residency programs according to their choice of specialty. Depending upon the availability of funds, students who successfully enter residency programs which have been approved by the commission may receive further financial support from the Mississippi Rural Physicians Scholarship Program subject to applicable rules and policies of the commission. All funding for financial support from the commission to participants during their residency must be disbursed in accordance with applicable regulations.

SOURCES: Laws, 2007, ch. 554, § 8, eff from and after passage (approved Apr. 20, 2007.)

§ 37-144-17. Program participants required to enter practice of medicine in health professional shortage, rural or underserved area upon completion of residency for number of years corresponding to number of years assistance received up to maximum of five years; breach of contract; liability for repayment.

(1) Upon completion of residency, a participant in the Mississippi Rural Physicians Scholarship Program must proceed to enter the practice of medicine in a rural or underserved area in Mississippi, as defined by the commission and consistent with generally acceptable designations. If an area experiences significant changes in its medical or general community which are not reflected by health professional shortage area (HPSA) or medically underserved area (MUA) rural designation, the commission may receive testimony and, in its discretion, may qualify the area as an underserved or rural area to allow the program participant to fulfill his or her practice obligation.

(2) Upon entering the practice of medicine, a participant in the program must serve in a health professional shortage area (HPSA), medically underserved area (MUA), or rural area otherwise approved for practice under subsection (1) of this section for a number of years which corresponds to the number of years, not to exceed five (5), for which the participant received funding through the program. A participant who completes residency outside the State of Mississippi who fails to enter the practice of medicine as required under this section shall be deemed in breach of contract and shall be liable for the immediate repayment of all financial assistance provided to the participant through the Mississippi Rural Physicians Scholarship Program, including assistance provided during undergraduate school, as well as in medical or osteopathic school, along with other penalties that may be prescribed in policy

by the board. Any participant who fails to complete the period of practice for which he or she is obligated to provide services in a health professional shortage area (HPSA) or a medically underserved area (MUA) in exchange for financial assistance received through the Mississippi Rural Physicians Scholarship Program shall be liable for the repayment of all financial assistance provided to the participant through the program, along with other penalties that may be prescribed by the commission, an amount which shall be reduced on a pro rata basis for actual years of practice by the physician in the area designated by the commission.

SOURCES: Laws, 2007, ch. 554, § 9, eff from and after passage (approved Apr. 20, 2007.)

§ 37-144-19. Initial practice entry support system for program participants.

The Mississippi Rural Physicians Scholarship Program, acting through the commission, shall make every effort to establish an initial practice entry support system for participants in the program.

SOURCES: Laws, 2007, ch. 554, § 10, eff from and after passage (approved Apr. 20, 2007.)

§ 37-144-21. Limitation of program and commission governing and administrative authority.

This chapter may not be construed as granting the Mississippi Rural Physicians Scholarship Program or its governing commission any governing or administrative authority over any program administered by any college, university, medical school or residency program in this state or any other program established by state law.

SOURCES: Laws, 2007, ch. 554, § 11; Laws, 2014, ch. 538, § 42, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment deleted “including the Medical Education Scholarship and Loan Repayment Program established under Section 37-14-36” from the end.

CHAPTER 145

Mississippi Opportunity Loan Program Act

Sec.

37-145-1. Short title.
37-145-3. Definitions.
37-145-5. Mississippi Opportunity Loan Program.
37-145-7. Mississippi Opportunity Loan Fund.
37-145-9. Administration of Fund.
37-145-11. Board of trustees to serve as direct lender of non-subsidized student loans; general duties.
37-145-13. Loan limits; coordination with certain other programs.
37-145-15. Eligibility for loans.
37-145-17. Disposition of repaid principal and interest.
37-145-19. Loans subject to availability of funds.
37-145-21. Authority to enter into agreements and contracts.
37-145-23. Authority to issue general obligation bonds.
37-145-25. Issuance of general obligation bonds.
37-145-27. General obligation bonds negotiable and tax exempt.
37-145-29. Sale of general obligation bonds; notice of sale.
37-145-31. Proceeds of sale of general obligation bonds.
37-145-33. Bondholder enforcement of general obligation bond rights.
37-145-35. No additional proceedings or happenings necessary for issuance of general obligation bonds; validation of bonds.
37-145-37. General obligation bonds legal investments and securities.
37-145-39. No additional authority necessary for issuance of general obligation bonds.
37-145-41. Attorney for State Bond Commission; expenses of Commission for general obligation bond issuance.
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37-145-45. Student loan revenue bonds not a public obligation.
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37-145-49. Terms and conditions related to student loan revenue bonds and their issuance.
37-145-51. Pledge upon student loan revenue bonds.
37-145-53. Purchase of student loan revenue bonds by issuing company.
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37-145-61. Issuer authorized to contract with bondholders; trusts and security for payment of bonds.
37-145-63. Subsequent amendments not to limit vested rights of bondholders.
37-145-65. Payment of expenses of company issuing bonds; no state or public liability or indebtedness.
37-145-67. Public function; student loan revenue bond income tax exempt.
37-145-69. Student loan revenue bonds legal investments and securities.
37-145-71. Borrowing funds to support guaranty student loan function; limit on obligation; debt solely that of board of trustees.
37-145-73. Guarantee reserve funds.

§ 37-145-1. Short title.

This chapter shall be known and may be cited as the “Mississippi Opportunity Loan Program Act.”

SOURCES: Laws, 1992, ch. 475, § 1, eff from and after passage (approved May 6, 1992).

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

General provisions pertaining to state institutions of higher learning, see §§ 37-101-1 et seq.

RESEARCH REFERENCES

ALR. Construction and application of agreement by medical or social work student to work in particular positions or at particular location in exchange for financial aid in meeting costs of education. 83 A.L.R.3d 1273.

Rights and obligations of Federal Government, under 20 USCS § 1080, when student borrower defaults on federally insured loan. 73 A.L.R. Fed. 303.

§ 37-145-3. Definitions.

As used in this chapter:

(a) "Company" means the Mississippi Business Finance Corporation established pursuant to Section 57-10-167.

(b) "Board of trustees" means the Board of Trustees of State Institutions of Higher Learning.

(c) "Guaranty Agency" means the Mississippi Guarantee Student Loan Agency of the Board of Trustees of State Institutions of Higher Learning.

SOURCES: Laws, 1992, ch. 475, § 2, eff from and after passage (approved May 6, 1992).

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

General provisions pertaining to state institutions of higher learning, see §§ 37-101-1 et seq.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities § 21.

§ 37-145-5. Mississippi Opportunity Loan Program.

There is hereby created the Mississippi Opportunity Loan Program to assist students in meeting the rising costs of higher education and to increase the educational opportunities of such students by providing low interest rate student loans to assist Mississippi students in furthering their higher education goals.

SOURCES: Laws, 1992, ch. 475, § 3, eff from and after passage (approved May 6, 1992).

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

General provisions pertaining to state institutions of higher learning, see §§ 37-101-1 et seq.

§ 37-145-7. Mississippi Opportunity Loan Fund.

(1) There is hereby created a special fund of the company to be known as the "Mississippi Opportunity Loan Fund." The fund shall consist of amounts paid into the fund by donations from private sources, by legislative appropriation, from the proceeds of the issuance of bonds or from any other source. All of the earnings on the investment of monies in the fund shall be credited to the fund.

(2) The monies in the fund shall be used to increase the educational opportunities of students by providing low interest rate loans to assist Mississippi students in furthering their higher education goals.

(3) The Mississippi Opportunity Loan Fund shall be maintained by the company. The company is authorized to maintain such fund in an official state depository, and, in accordance with Section 27-105-21, shall invest such funds at interests as required by said section, said depository so selected shall be capable of serving as Trustee for the Mississippi Opportunity Loan Fund.

SOURCES: Laws, 1992, ch. 475, § 4, eff from and after passage (approved May 6, 1992).

Cross References — Definition of "company," see § 37-145-3.

Issuance of bonds to initially fund Mississippi Opportunity Loan Fund, see § 37-145-23.

§ 37-145-9. Administration of Fund.

The company shall administer and manage all money, including all interest made on loans pursuant to this chapter and all principal repaid on loans in whatever manner maximizes the amount of money available to the Mississippi Opportunity Loan Fund that is consistent with federal reinsurance requirements and state budget practices.

SOURCES: Laws, 1992, ch. 475, § 5, eff from and after passage (approved May 6, 1992).

Cross References — Definition of "company," see § 37-145-3.

§ 37-145-11. Board of trustees to serve as direct lender of non-subsidized student loans; general duties.

The board of trustees shall serve as the direct lender of the non-subsidized student loans authorized under this chapter and in such capacity shall:

(a) Accept and review each loan application;

(b) Determine the applicant's eligibility and continued eligibility;

(c) Collect any balance which may become due as a result of default on any loan, for which purpose the board of trustees shall have all the same authority as they have for the guaranteed student loan program; and

(d) Provide by rule for:

(i) A mechanism for informing students of the availability of the loans;

(ii) The creation of all applications, forms, promissory notes and other instruments necessary for the administration of the program; and

(iii) Any other items necessary for the administration of the program.

SOURCES: Laws, 1992, ch. 475, § 6, eff from and after passage (approved May 6, 1992).

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

General provisions pertaining to state institutions of higher learning, see §§ 37-101-1 et seq.

§ 37-145-13. Loan limits; coordination with certain other programs.

The annual and aggregate loan limits for each eligible student borrower shall be in accordance with those limits established for the Stafford Loan Program authorized by Title IV of the Higher Education Act of 1965, as amended. The board of trustees has established an agency to carry out the functions of providing guarantees to student loans in accordance with the Stafford Loan Program. This agency, entitled the Mississippi Guarantee Student Loan Agency, guarantees payment of loans qualifying under federal law which are thereby eligible for reinsurance from the federal Department of Education. The board is authorized to operate the Mississippi Opportunity Loan Program as a guaranteed program.

SOURCES: Laws, 1992, ch. 475, § 7, eff from and after passage (approved May 6, 1992).

Editor's Note — Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Federal Aspects — Title IV of Higher Education Act of 1965, see 20 USCS §§ 1070 et seq.

§ 37-145-15. Eligibility for loans.

To be eligible to receive a loan under this chapter, the applicant must have been a bona fide resident of the State of Mississippi for three (3) consecutive years immediately preceding the date of the loan application and must be enrolled or accepted for enrollment by a public or private junior college, community college or institution of higher learning accredited by an appropriate accrediting body acceptable to the board of trustees.

SOURCES: Laws, 1992, ch. 475, § 8, eff from and after passage (approved May 6, 1992).

RESEARCH REFERENCES

ALR. Construction and application of agreement by medical or social work student to work in particular positions or at particular location in exchange for financial aid in meeting costs of education. 83 A.L.R.3d 1273.

Rights and obligations of Federal Government, under 20 USCS § 1080, when student borrower defaults on federally insured loan. 73 A.L.R. Fed. 303.

Am Jur. 15A Am. Jur. 2d, Colleges and Universities § 21.

§ 37-145-17. Disposition of repaid principal and interest.

All repaid principal and interest resulting from repayment of a loan and not required for retirement of bonds issued under authority of Sections 37-145-43 through 37-145-73 or other expenses of the Mississippi Opportunity Loan Program shall be credited to the Mississippi Opportunity Loan Fund.

SOURCES: Laws, 1992, ch. 475, § 9, eff from and after passage (approved May 6, 1992).

Cross References — Mississippi Opportunity Loan Fund, see § 37-145-7.

§ 37-145-19. Loans subject to availability of funds.

The receipt of a loan under this chapter by an eligible borrower is subject to the availability of lending capital and Mississippi Opportunity Loan Fund balances.

SOURCES: Laws, 1992, ch. 475, § 10, eff from and after passage (approved May 6, 1992).

Cross References — Mississippi Opportunity Loan Fund, see § 37-145-7.

§ 37-145-21. Authority to enter into agreements and contracts.

The company, the board of trustees and the State Bond Commission are hereby authorized to enter into any and all agreements and contracts as may be necessary to effectuate the purposes of this chapter.

SOURCES: Laws, 1992, ch. 475, § 11, eff from and after passage (approved May 6, 1992).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.
Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1.
Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-23. Authority to issue general obligation bonds.

The State Bond Commission shall have the power and is hereby authorized, at one (1) time or from time to time, to issue negotiable general obligation bonds of the State of Mississippi to initially fund the Mississippi Opportunity Loan Fund. The total amount of bonds which may be issued pursuant to Sections 37-145-23 through 37-145-43 shall not exceed Three Million Dollars ($3,000,000.00).

SOURCES: Laws, 1992, ch. 475, § 12, eff from and after passage (approved May 6, 1992).

Cross References — State Bond Commission, see generally §§ 31-17-1 et seq.
Mississippi Opportunity Loan Fund, see § 37-145-7.

§ 37-145-25. Issuance of general obligation bonds.

Upon the adoption of a resolution by the board of directors of the company declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by Sections 37-145-23 through 37-145-43, the board shall deliver a certified copy of its resolution to the State Bond Commission. Upon the receipt of same, the State Bond Commission shall issue and sell bonds in an amount requested, and do any and all things necessary and advisable in connection with the issuance and sale of such bonds. For the payment of such bonds and the interest thereon, the full faith, credit and taxing power of the State of Mississippi are hereby irrevocably pledged. If the Legislature shall find that there are funds available in the General Fund of the Treasury of the State of Mississippi in amounts sufficient to pay maturity, principal and accruing interest of such general obligation bonds and if the Legislature shall appropriate such available funds for the purpose of paying such maturity, principal and accruing interest, then the principal, maturity and accruing interest of such bonds shall be paid from appropriations made from the General Fund of the Treasury of the State of Mississippi by the Legislature thereof; but if there are not available sufficient funds in the General Fund of the Treasury of the State of Mississippi to pay the maturity, principal and accruing interest of such bonds, or if such funds are available and the Legislature should fail to appropriate a sufficient amount thereof to pay such principal and accruing interest as the same becomes due, then, and in that event, there shall annually be levied upon all taxable property within the State of Mississippi an ad valorem tax at a rate sufficient to provide the funds required to pay the bonds at maturity and the interest thereon as the same accrues. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed that rate established in Section 75-17-101), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times, be redeemable prior to maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission. Such bonds shall be signed by the Chairman of the State Bond Commission or by his facsimile signature, and the official seal of the State Bond Commission shall be affixed thereto, attested by the Secretary of the State Bond Commission. The interest coupons to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials herein designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers prior to the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser or had been in office on the date such bonds may bear.

SOURCES: Laws, 1992, ch. 475, § 13, eff from and after passage (approved May 6, 1992).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.
Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-27. General obligation bonds negotiable and tax exempt.

All general obligation bonds of the State of Mississippi and interest coupons issued under the provisions of Sections 37-145-23 through 37-145-41 shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the State of Mississippi. Such bonds and the income therefrom shall be exempt from all taxation within the State of Mississippi.

SOURCES: Laws, 1992, ch. 475, § 14, eff from and after passage (approved May 6, 1992).

§ 37-145-29. Sale of general obligation bonds; notice of sale.

The State Bond Commission shall sell such bonds in the manner and at a price which will result in the lowest interest rate on the best terms obtainable for the state, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. Notice of the sale of any such bonds shall be published at least one (1) time not less than ten (10) days prior to the date of sale and shall be so published in one or more newspapers having a general circulation in the City of Jackson and in one or more other newspapers or financial journals as may be directed by the State Bond Commission.

SOURCES: Laws, 1992, ch. 475, § 15, eff from and after passage (approved May 6, 1992).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 37-145-31. Proceeds of sale of general obligation bonds.

Upon the issuance and sale of such bonds, the State Bond Commission shall transfer the proceeds of any such sale to the State Treasurer. Immediately upon receipt of a resolution from the board of directors of the company requesting same, the State Fiscal Officer shall issue a warrant to the State Treasurer to cause to be paid into the Mississippi Opportunity Loan Fund of the company the proceeds of said bonds, less cost of issuance thereafter and accrued interest on the bonds.

SOURCES: Laws, 1992, ch. 475, § 16, eff from and after passage (approved May 6, 1992).

Editor's Note — Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

Mississippi Opportunity Loan Fund, see § 37-145-7.

§ 37-145-33. Bondholder enforcement of general obligation bond rights.

Any holder of bonds issued under the provisions of Sections 37-145-23 through 37-145-41 or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted hereunder, or under such resolution, and may enforce and compel performance of all duties required by Sections 37-145-23 through 37-145-41 to be performed, in order to provide for the payment of bonds and interest thereon.

SOURCES: Laws, 1992, ch. 475, § 17, eff from and after passage (approved May 6, 1992).

§ 37-145-35. No additional proceedings or happenings necessary for issuance of general obligation bonds; validation of bonds.

Such general obligation bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified or required by Sections 37-145-23 through 37-145-41. Any resolution providing for the issuance of general obligation bonds under the provisions of Sections 37-145-23 through 37-145-41 shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular, special or adjourned meeting of the State Bond Commission by a majority of its members.

The bonds authorized under the authority of Sections 37-145-23 through 37-145-41 may, in the discretion of the State Bond Commission, be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Commission, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

SOURCES: Laws, 1992, ch. 475, § 18, eff from and after passage (approved May 6, 1992).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 37-145-37. General obligation bonds legal investments and securities.

All bonds issued under the provisions of Sections 37-145-23 through 37-145-41 shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SOURCES: Laws, 1992, ch. 475, § 19, eff from and after passage (approved May 6, 1992).

§ 37-145-39. No additional authority necessary for issuance of general obligation bonds.

Sections 37-145-23 through 37-145-41 shall be deemed to be full and complete authority for the exercise of the powers therein granted.

SOURCES: Laws, 1992, ch. 475, § 20, eff from and after passage (approved May 6, 1992).

§ 37-145-41. Attorney for State Bond Commission; expenses of Commission for general obligation bond issuance.

The State Bond Commission shall select an attorney or attorneys to represent the State Bond Commission in issuing, selling and validating bonds provided for in Sections 37-145-23 through 37-145-41, and the bond commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under Sections 37-145-23 through 37-145-41.

SOURCES: Laws, 1992, ch. 475, § 21, eff from and after passage (approved May 6, 1992).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 37-145-43. Authority to issue student loan revenue bonds; purpose of bonds.

The company, in addition to any other powers and duties, shall have the power to issue student loan revenue bonds as hereinafter provided in Sections 37-145-43 through 37-145-73 in order to provide funds for deposit into the Mississippi Opportunity Loan Fund and to provide funds to the board of trustees to use in support of the board of trustees' student loan guaranty function.

SOURCES: Laws, 1992, ch. 475, § 22, eff from and after passage (approved May 6, 1992).

Cross References — State Bond Commission, see generally §§ 31-17-1 et seq.
Company defined as Mississippi Business Finance Corporation, see § 37-145-3.
Mississippi Opportunity Loan Fund, see § 37-145-7.

§ 37-145-45. Student loan revenue bonds not a public obligation.

No bonds issued by the company under Sections 37-145-43 through 37-145-73 shall constitute a debt, liability or general obligation of the state or any political subdivision thereof (other than the company), or a pledge of the faith and credit of the state or any political subdivision thereof (other than the company), but shall be payable solely as provided by the company. No member or officer of the board of directors of the company nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. Each bond issued under Sections 37-145-43 through 37-145-73 shall contain on the face thereof a statement that neither the state, nor any other political subdivision thereof, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenue or money pledged by the company and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged to the payment of the principal of, or the interest on, such bond.

SOURCES: Laws, 1992, ch. 475, § 23, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-47. Issuance of student loan revenue bonds.

The bonds issued pursuant to Sections 37-145-43 through 37-145-73 shall be authorized by a resolution of the company, shall bear such date or dates, and shall mature at such time or times as such resolution may provide, except that no bond shall mature more than thirty (30) years from the date of issue. Bonds which are not subject to taxation shall bear interest at such rate or rates not exceeding that authorized by Section 75-17-103, including variations of such rates, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, including redemption prior to maturity, as such resolution may provide. Except as expressly provided otherwise in Sections 37-145-43 through 37-145-73, the provisions of other laws of the state relating to the issuance of revenue bonds shall not apply to bonds issued by the company. As to bonds issued hereunder and designated as taxable bonds by the company, any immunity to taxation by the United States government of interest on such bonds or notes is hereby waived. Bonds of the company may be sold by the company at public or private sale, from time to time, and at such price or prices as the company shall determine.

SOURCES: Laws, 1992, ch. 475, § 24, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-49. Terms and conditions related to student loan revenue bonds and their issuance.

Any resolution authorizing the issuance of bonds pursuant to Sections 37-145-43 through 37-145-73 may contain provisions as to:

(a) Pledging all or any part of the revenues of the company to secure the payment of the bonds subject to the terms of the proceedings relating to other bonds of the company as may then exist;

(b) Pledging all or any part of the assets of the company, including the Mississippi Opportunity Loan Fund, including loans and obligations securing the same, to secure the payment of the bonds, subject to the terms of the proceedings relating to other bonds of the company as may then exist;

(c) The use and disposition of the gross income from loans owned by the company and payment of the principal of loans owned by the company;

(d) The setting aside of reserves or sinking funds and the regulations and disposition thereof;

(e) Limitations on the purposes to which the proceeds from the sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;

(g) The procedure, if any, by which the terms of any of the proceedings under which the bonds are being issued may be amended or abrogated, the number or percentage of bondholders who or which must consent thereto, and the manner in which the consent may be given;

(h) The vesting in a trustee or trustees of such property, rights, powers and duties in trust as the company may determine, and limiting or abrogating the right of bondholders to appoint a trustee or limiting the rights, powers and duties of the trustee;

(i) Defining the act or omissions to act which shall constitute a default and the obligations or duties of the company to the holders of the bonds, and providing for the rights and remedies of the holders of the bonds in the event of default, which rights and remedies may include the general laws of the state and other provisions of Sections 37-145-43 through 37-145-73; or

(j) Any other matter, of like or different character, which in any way affects the security or protection of the holders of the bonds.

SOURCES: Laws, 1992, ch. 475, § 25, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

Mississippi Opportunity Loan Fund, see § 37-145-7.

§ 37-145-51. Pledge upon student loan revenue bonds.

Any pledge made by the company shall be valid and binding from the time when the pledge was made. The revenues or properties so pledged and thereafter received by the company shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the company, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

SOURCES: Laws, 1992, ch. 475, § 26, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-53. Purchase of student loan revenue bonds by issuing company.

The company, subject to the provisions in proceedings relating to outstanding bonds as may then exist, may purchase bonds out of any funds available therefor, which shall thereupon be cancelled, at any reasonable price which, if the bonds are then redeemable, shall not exceed the redemption price (and premium, if any) then applicable plus accrued interest to the redemption date thereof.

SOURCES: Laws, 1992, ch. 475, § 27, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation,' see § 37-145-3.

§ 37-145-55. Security for student loan revenue bonds.

The bonds may be secured by an indenture by and between the company and a corporate trustee which may be any bank or other corporation having the power of a trust company or any trust company within or without this state. Such indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the company in relation to the exercise of its powers.

SOURCES: Laws, 1992, ch. 475, § 28, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-57. Validity and sufficiency of signatures upon bonds.

In the event that any of the members or officers of the board of directors of the company shall cease to be members or officers of the board prior to the delivery of any bonds signed by them, their signatures or facsimiles thereof shall nevertheless be valid and sufficient for all purposes, the same as if such members or officers had remained in office until such delivery.

SOURCES: Laws, 1992, ch. 475, § 29, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-59. Funds and accounts to carry out provisions relating to student loan revenue bonds.

The company may create and establish such funds and accounts as may be necessary or desirable for its purposes pursuant to Sections 37-145-43 through 37-145-73.

SOURCES: Laws, 1992, ch. 475, § 30, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-61. Issuer authorized to contract with bondholders; trusts and security for payment of bonds.

The company shall have the power to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any money of the company, and of any money held in trust or otherwise for the payment of bonds, and to carry out such contract. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of money may be secured in the same manner as money of the company, and all banks and trust companies are authorized to give security for the deposits.

SOURCES: Laws, 1992, ch. 475, § 31, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-63. Subsequent amendments not to limit vested rights of bondholders.

Subsequent amendments to Sections 37-145-43 through 37-145-73 shall not limit the rights vested in the company with respect to any agreements made with, or remedies available to, the holders of bonds issued under Sections 37-145-43 through 37-145-73 prior to the enactment of the amendments until the bonds, together with all interest thereon, and all costs and expenses in connection with any proceeding by or on behalf of the holders, are fully met and discharged.

SOURCES: Laws, 1992, ch. 475, § 32, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-65. Payment of expenses of company issuing bonds; no state or public liability or indebtedness.

All expenses incurred by the company in carrying out the provisions of this chapter shall be payable from funds in the Mississippi Opportunity Loan Fund, and nothing in Sections 37-145-43 through 37-145-73 shall be construed to authorize the company to incur indebtedness or liability on behalf of or payable by the state or any other political subdivision thereof.

SOURCES: Laws, 1992, ch. 475, § 33, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

Mississippi Opportunity Loan Fund, see § 37-145-7.

§ 37-145-67. Public function; student loan revenue bond income tax exempt.

The company is hereby declared to be performing a public function and to be a public body corporate and a political subdivision of the state. Accordingly, the income, including any profit made on the sale thereof from all bonds issued by the company pursuant to Sections 37-145-43 through 37-145-73, shall at all times be exempt from all taxation by the state or any public subdivision thereof. If, after all indebtedness and other obligations of the company are discharged the company is dissolved, its remaining assets shall inure to the benefit of the state.

SOURCES: Laws, 1992, ch. 475, § 34, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-69. Student loan revenue bonds legal investments and securities.

The bonds issued by and under the authority of Sections 37-145-43 through 37-145-73 by the company are declared to be legal investments in which all public officers or public bodies of the state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on insurance business, all banks, bankers, banking associations, trust companies, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may later be authorized to invest in bonds or in other obligations of the state, may invest funds, including capital, in their control or belonging to them. Such bonds are also hereby made securities which may be deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may be later authorized by law.

SOURCES: Laws, 1992, ch. 475, § 35, eff from and after passage (approved May 6, 1992).

Cross References — Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-71. Borrowing funds to support guaranty student loan function; limit on obligation; debt solely that of board of trustees.

The board of trustees is authorized to borrow funds from public or private sources under such provisions pertaining to rates of interest, repayment schedules, collateral and other requirements as may be approved by the board of trustees for the support of the guaranty student loan function of the board. The obligations so incurred by the board of trustees shall be limited to the amount of indebtedness as may be supported by revenues available from the board's guaranty student loan function and such obligations shall not constitute a debt, liability or general obligation of the state or any political subdivision thereof (other than the board of trustees), or a pledge of the faith and credit of the state or any political subdivision thereof (other than the board of trustees), but shall be payable solely as provided by the board of trustees.

SOURCES: Laws, 1992, ch. 475, § 36, eff from and after passage (approved May 6, 1992).

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Company defined as Mississippi Business Finance Corporation, see § 37-145-3.

§ 37-145-73. Guarantee reserve funds.

In addition to any other funds it may establish, the board of trustees may, by resolution, establish one or more special funds pursuant to this section, referred to herein as "guarantee reserve funds," and may pay into such reserve funds:

(a) Any moneys appropriated and made available by the state for the purposes of such guarantee reserve fund;

(b) Any proceeds from the sale of notes or bonds to the extent provided in the resolutions of the board of trustees authorizing the issuance thereof;

(c) Any moneys which may be made available to the board of trustees from any other sources for the purposes of such guarantee reserve fund; and

(d) Any income or interest earned by, or increment to, any reserve fund due to investment shall be deposited in the reserve fund.

The board of trustees may by resolution provide for the establishment of a guarantee reserve fund requirement for any guarantee reserve fund established pursuant to this section.

The board of trustees shall, on or before January 1 of each year, make and deliver to the Governor of the state a certificate stating the sum, if any, required to restore the guarantee reserve fund to the fund requirement. The Governor shall transmit to the State Legislature a request for the amount, if any, required to restore the guarantee reserve fund to the required funding level. The State Legislature may, but shall not be required to, make any such appropriations so requested. All sums appropriated by the State Legislature for such restoration and paid shall be deposited by the board of trustees in the guarantee reserve fund.

Any moneys appropriated by the State Legislature for the purposes of the guarantee reserve fund established pursuant to this section shall not revert to the General Fund of the state at the end of any fiscal year.

SOURCES: Laws, 1992, ch. 475, § 37, eff from and after passage (approved May 6, 1992).

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

CHAPTER 146

Mississippi Rural Dentists Scholarship Program

Sec.

37-146-1. Mississippi Rural Dentists Scholarship Program established.

37-146-3. Mississippi Rural Dentists Scholarship Commission; compensation; program funding.

37-146-5. Powers and duties of commission.

37-146-7. Identification and recruitment of undergraduate participants; designation of underserved or rural area; applicant qualifications; maximum number of new admissions per year.

37-146-9. Participants to adhere to program policies and practices to remain in program; forgiveness or repayment of financial assistance under certain circumstances.

37-146-11. Participants may apply to any accredited dental school in Mississippi; early admissions process for students applying to University of Mississippi School of Dentistry.

37-146-13. Ongoing financial support for program participants who attend dental school; preference for ongoing support to University of Mississippi School of Dentistry students; students obligated for one year of practice for every year of financial assistance received.

37-146-15. Reserved

37-146-17. Program participants required to enter practice of dentistry in health professional shortage, rural or underserved area upon completion of residency for number of years corresponding to number of years assistance received up to maximum of five years; breach of contract; liability for repayment.

37-146-19. Initial practice entry support system for program participants.

37-146-21. Limitation of program and commission governing and administrative authority.

§ 37-146-1. Mississippi Rural Dentists Scholarship Program established.

There is established the Mississippi Rural Dentists Scholarship Program for the purpose of identifying and recruiting qualified university and college students from rural areas of the state for dental school matriculation. The program shall consist of three (3) distinct phases through which participants will progress, including:

(a) Undergraduate pre-dental education;

(b) Dental school and residency; and

(c) Initial entry into dental practice in a rural or underserved area of the State of Mississippi.

SOURCES: Laws, 2013, ch. 397, § 1, eff from and after July 1, 2013.

§ 37-146-3. Mississippi Rural Dentists Scholarship Commission; compensation; program funding.

(1) The Mississippi Rural Dentists Scholarship Program shall be administered by a commission to be known as the "Mississippi Rural Dentists

Scholarship Commission." The commission shall be directed by a board composed of the following members:

(a) Two (2) dentists appointed by and from the membership of the Mississippi Dental Association, the term of which shall be three (3) years and who may be reappointed for one (1) additional term;

(b) One (1) dentist appointed by and from the membership of each of the following organizations, the term of which shall be three (3) years and who may be reappointed for one (1) additional term:

(i) Mississippi Dental Society;

(ii) Mississippi Academy of General Dentistry; and

(iii) Mississippi Chapter, American Academy of Pediatric Dentistry;

(c) Two (2) designees of the Dean of the University of Mississippi School of Dentistry whose terms are at the discretion of the dean, at least one (1) of whom is a member of the University of Mississippi School of Dentistry Admissions Committee; and

(d) Two (2) dental students, one (1) of whom shall be selected yearly through a process developed by the Dean of the School of Dentistry in consultation with the chairs of the various departments.

(2) The pre-professional advisors from the accredited four-year colleges and universities in the State of Mississippi shall comprise an advisory committee to the commission in the administration of the Mississippi Rural Dentists Scholarship Program.

(3) Vacancies on the commission must be filled in a manner consistent with the original appointments.

(4) All appointments to the commission must be made no later than September 1, 2013. After the members are appointed, the Program Director of the Mississippi Rural Dentists Scholarship Program shall set a date for the organizational meeting that is mutually acceptable to the majority of the commission members. The organizational meeting shall be for the purposes of organizing the commission and establishing rules for transacting its business. A majority of the members of the commission shall constitute a quorum at all commission meetings. An affirmative vote of a majority of the members present and voting shall be required in the adoption of rules, reports and in any other actions taken by the commission. At the organizational meeting, the commission shall elect a chair and vice chair from the members appointed according to paragraphs (a) through (d) of subsection (1). The chair shall serve for a term of two (2) years, upon the expiration of which, the vice chair shall assume the office of chair.

(5) After the organizational meeting, the commission shall hold no less than two (2) meetings annually.

(6) The commission may form an executive committee for the purpose of transacting business that must be conducted before the next regularly scheduled meeting of the commission. All actions taken by the executive committee must be ratified by the commission at its next regularly scheduled meeting.

(7) Members of the commission shall serve without compensation but may be reimbursed, subject to the availability of funding, for mileage and actual

and necessary expenses incurred in attending meetings of the commission, as provided in Section 25-3-41.

(8) Funding for the establishment and continued operation of the program and commission shall be appropriated out of any money in the State General Fund not already appropriated to the University of Mississippi Medical Center.

SOURCES: Laws, 2013, ch. 397, § 2, eff from and after July 1, 2013.

§ 37-146-5. Powers and duties of commission.

The Mississippi Rural Dentists Scholarship Commission shall have the following powers and duties:

(a) Developing the administrative policy for the commission and the Mississippi Rural Dentists Scholarship Program;

(b) Promulgating rules and regulations, with the advice and consent of the University of Mississippi Medical Center, pertaining to the implementation and operation of the Rural Dentists Scholarship Program;

(c) Developing and implementing strategies and activities for the identification and recruitment of students and for marketing the program and for the implementation of the program. In developing these strategies, the board shall seek the input of various organizations and entities.

(d) Establishing a budget, with the advice and consent of the University of Mississippi Medical Center, to support the activities of the program and periodically reviewing and if appropriate, revising, the scholarship and other stipends offered through the program;

(e) Advising the University of Mississippi Medical Center regarding hiring appropriate staff necessary to work in conjunction with the Executive Director of the Mississippi Rural Physicians Scholarship Program.

(f) Reviewing participants' progress in the program and mentoring students and dentists participating in the program;

(g) The commission shall have the authority through use of generally applicable definitions, to designate an area of the state as underserved or rural. The method by which these designations shall be made shall be contained in rules and regulations promulgated by the commission.

SOURCES: Laws, 2013, ch. 397, § 3, eff from and after July 1, 2013.

§ 37-146-7. Identification and recruitment of undergraduate participants; designation of underserved or rural area; applicant qualifications; maximum number of new admissions per year.

(1) The commission shall develop and implement policies and procedures designed to recruit, identify and enroll undergraduate students who demonstrate necessary interest, commitment, aptitude and academic achievement to pursue careers as dentists in rural or dentally underserved areas of Missis-

sippi, and to develop and implement the programs designed to foster successful entry of participants into dental school, completion of dental school, and establishment and maintenance of a career in dentistry in a rural or underserved area of Mississippi.

(2) The commission shall have the authority through use of generally applicable definitions, to designate an area of the state as underserved or rural.

(3) The commission, in conjunction with the University of Mississippi Medical Center, shall have the authority to provide students selected for scholarship funding with faculty mentors and other programs designed to enhance the students' likelihood of admission to the dental school. The commission and the University of Mississippi Medical Center will develop coursework that will help provide scholarship students with the skills necessary for sustained and successful dental practice in rural Mississippi.

(4) Each applicant for admission to the program must submit an application to the commission that conforms to requirements established by the commission.

(5) In selecting participants for the program, the board may only accept an applicant if his or her academic record and other characteristics, if given consideration by the University of Mississippi School of Dentistry Admissions Committee, would be considered credible and competitive.

(6) An applicant for the program may be admitted only upon a majority vote of the members of the commission.

(7) Up to three (3) students will be admitted to the Mississippi Rural Dentists Scholarship Program each year.

SOURCES: Laws, 2013, ch. 397, § 4, eff from and after July 1, 2013.

§ 37-146-9. Participants to adhere to program policies and practices to remain in program; forgiveness or repayment of financial assistance under certain circumstances.

(1) Participants must adhere to the policies and practices as stipulated by the commission to continue in the program.

(2) Students in the program may receive tuition or other financial support that may be provided by the commission. If a student in the program is admitted to and completes dental school, any tuition or other educational and living support provided to the student by the commission will be forgiven. However, if the student is not successful in being accepted into dental school within three (3) years of entry into the Mississippi Rural Dentists Scholarship Program, or if the student otherwise breaches his or her agreement with the commission, all financial assistance provided to the student must be repaid according to policies adopted by the board.

SOURCES: Laws, 2013, ch. 397, § 5, eff from and after July 1, 2013.

§ 37-146-11. Participants may apply to any accredited dental school in Mississippi; early admissions process for students applying to University of Mississippi School of Dentistry.

(1) Students in the program may apply to the Mississippi Dental School.

(2) Students in the program seeking admission to the University of Mississippi School of Dentistry shall be eligible for the admissions process pursuant to criteria established by the School of Dentistry Admissions Committee which will include consideration of the attributes of participation in the program.

(3) In carrying out the admissions process developed for the Mississippi Rural Dentists Scholarship Program participants under this section, the goal is for the program to work with the School of Dentistry to enhance the capability of participants to successfully enter and complete dental school and enter practice in rural or underserved areas in Mississippi. To the extent feasible, the early admissions process should be completed before December 1 of the year preceding a student's admission to dental school.

SOURCES: Laws, 2013, ch. 397, § 6, eff from and after July 1, 2013.

§ 37-146-13. Ongoing financial support for program participants who attend dental school; preference for ongoing support to University of Mississippi School of Dentistry students; students obligated for one year of practice for every year of financial assistance received.

(1) Subject to the availability of funding, students in the program who successfully matriculate to dental school are eligible for ongoing financial support in accordance with policies and requirements of the commission and in accordance with the applicable laws and regulations. The number of students to be supported at the University of Mississippi School of Dentistry and at other schools will be established by policy prescribed by the commission.

(2) Subject to the availability of funding, students enrolled at the University of Mississippi School of Dentistry may receive tuition support, funding to assist with the cost of books and a living stipend, as prescribed by policy of the commission and in accordance with applicable regulations. Preferences for ongoing funding must be given to those students admitted to the University of Mississippi School of Dentistry.

(3) For each year that a student in dental school receives financial assistance, the student is obligated for one (1) year of practice as a dentist in a rural or underserved area in Mississippi. Breach of the agreement at any stage of training shall invoke the repayment of all financial assistance provided to the student through the Mississippi Rural Dentists Scholarship Program along with other penalties that may be prescribed in policy by the commission.

SOURCES: Laws, 2013, ch. 397, § 7, eff from and after July 1, 2013.

§ 37-146-15. [Reserved].

§ 37-146-17. Program participants required to enter practice of dentistry in health professional shortage, rural or underserved area upon completion of residency for number of years corresponding to number of years assistance received up to maximum of five years; breach of contract; liability for repayment.

(1) Upon completion of dental school and/or a dental residency program approved by the commission, a participant in the Mississippi Rural Dentists Scholarship Program must proceed to enter the full-time practice of dentistry in a rural or underserved area in Mississippi, as defined by the commission and consistent with generally acceptable designations. If an area experiences significant changes in its dental or general community which are not reflected by dental health professional shortage area (HPSA), the commission may receive testimony and, in its discretion, may qualify the area as a dentally underserved or rural area to allow the program participant to fulfill his or her practice obligation.

(2) Upon entering the practice of dentistry, a participant in the program must serve in a dental health professional shortage area (HPSA) or rural area otherwise approved for practice under subsection (1) of this section for a number of years which corresponds to the number of years, not to exceed five (5), for which the participant received funding through the program. Any participant who fails to complete the period of practice for which he or she is obligated to provide services in a dental health professional shortage area (HPSA) or rural area in exchange for financial assistance received through the Mississippi Rural Dentists Scholarship Program shall be liable for the repayment of all financial assistance provided to the participant through the program, along with other penalties that may be prescribed by the commission, an amount which shall be reduced on a pro rata basis for actual years of practice by the dentist in the area designated by the commission.

SOURCES: Laws, 2013, ch. 397, § 8, eff from and after July 1, 2013.

§ 37-146-19. Initial practice entry support system for program participants.

The Mississippi Rural Dentists Scholarship Program, acting through the commission, shall make an effort to establish an initial practice entry support system for participants in the program.

SOURCES: Laws, 2013, ch. 397, § 9, eff from and after July 1, 2013.

§ 37-146-21. Limitation of program and commission governing and administrative authority.

This chapter may not be construed as granting the Mississippi Rural Dentists Scholarship Program or its governing commission any governing or administrative authority over any program administered by any college, university, dental school or residency program in this state or any other program established by state law.

SOURCES: Laws, 2013, ch. 397, § 10, eff from and after July 1, 2013.

CHAPTER 147

Mississippi University Research Authority Act

Sec.	
37-147-1.	Short title.
37-147-3.	Mississippi University Research Authority established; purpose.
37-147-5.	Definitions.
37-147-7.	Composition of Authority.
37-147-9.	Executive director of authority.
37-147-11.	University ties with and interest in private entities; application; Authority permission.
37-147-13.	Powers of Authority.
37-147-15.	University formed research corporations.

§ 37-147-1. Short title.

This chapter shall be known and may be cited as the "Mississippi University Research Authority Act."

SOURCES: Laws, 1992, ch. 530, § 1, eff from and after July 1, 1992.

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

§ 37-147-3. Mississippi University Research Authority established; purpose.

There is hereby created and established the Mississippi University Research Authority to promote the public welfare and prosperity of the people of Mississippi and foster economic development within the state by forging links among the state's educational institutions, businesses and industrial communities and state government through the development of cooperative ventures of innovative technological significance which will advance education, research or economic development within the state.

SOURCES: Laws, 1992, ch. 530, § 2, eff from and after July 1, 1992.

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

§ 37-147-5. Definitions.

The following words shall have the meaning ascribed herein unless the context clearly requires otherwise:

(a) "Act" means the Mississippi University Research Authority Act;

(b) "Authority" means the entity created pursuant to this act;

(c) "Board" means the Board of Trustees of State Institutions of Higher Learning;

(d) "Technological innovations" means research, development, prototype assembly, manufacture, patenting, licensing, marketing and sale of inventions, ideas, practices, applications, processes, machines, technology and related property rights of all kinds; and

(e) "University" means a Mississippi educational institution established pursuant to the provisions of Section 213A of the 1890 Constitution of the State of Mississippi.

(f) "Intellectual property" means any formula, pattern, compilation, program, device, method, technique or process created primarily as a result of the research effort of an employee or employees of an institution of higher learning of the State of Mississippi.

SOURCES: Laws, 1992, ch. 530, § 3, eff from and after July 1, 1992.

Cross References — Constitutional provisions pertaining to state institutions of higher learning, see Miss. Const. Art. 8, § 213A.

Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

§ 37-147-7. Composition of Authority.

The authority shall be composed of the following members: five members appointed by the Board from among the chief research officers of the eight institutions of higher learning, to serve at the will and pleasure of the board; the vice-president of the board during the term of his office; the Director of the Department of Economic and Community Development, or his designee; the President of the Mississippi Resource Development Corporation, a non-profit corporation organized and operating under the laws of the State of Mississippi; and the Commissioner of Higher Education as an ex-officio, non-voting member.

SOURCES: Laws, 1992, ch. 530, § 4, eff from and after July 1, 1992.

§ 37-147-9. Executive director of authority.

The authority shall select an executive director who shall be the administrative officer of the authority and shall perform such duties as are required of him by law and such other duties as may be assigned by the authority. The executive director shall possess such qualifications as may be established by the authority. He shall receive such compensation as may be fixed by the authority.

The executive director, with the approval of the authority, shall employ such technical, professional and clerical help as may be authorized by the authority; and the authority, upon recommendation of the executive director, shall define the duties and fix the compensation of such employees.

SOURCES: Laws, 1992, ch. 530, § 5; Laws, 2011, ch. 406, § 1, eff from and after July 1, 2011.

§ 37-147-11. University ties with and interest in private entities; application; Authority permission.

(1) Notwithstanding any other provision of state law, an officer or employee of a university, except any chief executive officer, any chief financial officer, any chief research officer or any member of the authority, may, pursuant to subsections (2) and (3) of this section, apply to the authority which, under policies, rules and regulations established by the authority, may grant permission to establish and maintain a material financial interest in a private entity which provides or receives equipment, material, supplies or services in connection with the university in order to facilitate the transfer of technology developed by the officer or employee of the university from the university to commercial and industrial enterprises for economic development.

(2) To receive consideration for permission pursuant to subsection (1) of this section, the officer or employee of the university must first receive approval in writing from the chief executive officer, or his designee, of the university at which he is employed. The chief executive officer may grant approval to the officer or employee only if all the following conditions are met:

(a) The officer or employee provides a detailed description of his interest in the private entity to the chief executive officer;

(b) The nature of the undertaking or enterprise is fully described to the chief executive officer;

(c) The officer or employee demonstrates to the satisfaction of the chief executive officer that the proposed undertaking may benefit the economy of this state;

(d) The officer or employee demonstrates to the satisfaction of the chief executive officer that the proposed undertaking will not adversely affect research, public service or instructional activities at the university; and

(e) The officer's or employee's interest in the private entity, or benefit from the interest, will not adversely affect any substantial state interest.

(3) The authority may authorize an officer or employee of a university to establish and maintain a material financial interest in a private entity if all of the following conditions are met:

(a) The application as set forth in subsection (2) of this section is approved by the chief executive officer of the university at which the applying officer or employee is employed;

(b) The authority enters such application upon its minutes and reaches positive findings:

(i) That the application contains an adequately detailed description of the officer's or employee's interest in the private entity;

(ii) That the application contains a detailed description of the proposed undertaking or enterprise that is sufficient;

(iii) That the authority is satisfied that the proposed undertaking will benefit the economy of the state;

(iv) That the authority is satisfied that the proposed venture will not adversely affect research, public service or instructional activities at the university; and

(v) That the officer's or employee's interests in the private entity or benefit from the interest will not adversely affect any substantial state interest.

(4) On the recommendation of the authority, the chief executive officer of the university at which the officer or employee is employed may require that the university or the university's research corporation have a share in any royalties or shares or other proceeds or equity positions from the proposed undertaking of the private entity.

(5) The authority may establish policies, rules and regulations for the implementation of this section.

SOURCES: Laws, 1992, ch. 530, § 6, eff from and after July 1, 1992.

§ 37-147-13. Powers of Authority.

The authority shall have the power to implement and further the purposes of the Mississippi University Research Authority Act including the power:

(a) To lease, sell, exchange or transfer to a university or university research corporation personal property, money or other assets on terms and conditions established by the authority which are fair, just and reasonable to the authority and the university involved and to enter into any other contract or agreement with the university research corporation or other private entity.

(b) To conduct, sponsor, finance and contract in connection with technological innovations of all kinds.

(c) To receive gifts, grants and donations of money, personal property or other assets of any kind from any source.

(d) To do anything else which the authority deems appropriate to further the purposes of the Mississippi University Research Authority Act.

SOURCES: Laws, 1992, ch. 530, § 7, eff from and after July 1, 1992.

§ 37-147-15. University formed research corporations.

(1) With the approval of the Board of Trustees of State Institutions of Higher Learning, any university may form, pursuant to the provisions of the Mississippi Nonprofit Corporation Act or the Mississippi Business Corporation Act, one or more research corporations, separate and apart from the state and the university, to promote, develop and administer enterprises arising from research or technological innovations in order to take advantage of opportunities of scientific, educational and economic development.

(2) Each such corporation shall be governed by, and all of the functions, powers and duties of it shall be exercised by, a board of directors appointed by the president of the university. Members of the board of directors may include the president of the university, officers and employees of the university, and other persons selected by the president of the university. Officers and employees of the university may have ownership or financial interests in such corporations.

(3) The board of directors of each such corporation shall adopt bylaws, in accordance with the provisions of the Mississippi Nonprofit Corporation Act or the Mississippi Business Corporation Act, as appropriate, governing the conduct of the corporation in the performance of its duties under its charter and this act.

SOURCES: Laws, 1992, ch. 530, § 8, eff from and after July 1, 1992.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Mississippi Business Corporation Act, see §§ 79-4-1.01 et seq.

Mississippi Nonprofit Corporation Act, see §§ 79-11-101 et seq.

CHAPTER 148

Strengthening Mississippi Academic Research Through Business Act

Sec.

37-148-1. Short title.

37-148-3. Definitions.

37-148-5. Eligibility for rebate for qualified research costs; application; claiming rebate; audit.

37-148-7. Promulgation of rules and regulations.

37-148-9. Annual report on implementation of chapter.

§ 37-148-1. Short title.

This chapter shall be known and may be cited as the "Strengthening Mississippi Academic Research Through Business Act."

SOURCES: Laws, 2013, ch. 540, § 1, eff from and after July 1, 2013.

§ 37-148-3. Definitions.

As used in this chapter, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "College" means the state institutions of higher learning in Mississippi which are accredited by the Southern Association of Colleges and Schools.

(b) "Investor" means a natural person, partnership, limited liability company, association, corporation, business trust or other business entity, not formed for the specific purpose of acquiring the rebate offered, which is subject to Mississippi income tax or franchise tax.

(c) "Qualified research" means the systematic investigative process that is undertaken for the purpose of discovering information. The term "qualified research" does not include research conducted outside the State of Mississippi or research to the extent funded by any grant, contract or otherwise by another person or governmental entity.

(d) "Research agreement" means a written contract, grant or cooperative agreement entered into between a person and a college or research corporation for the performance of qualified research; however, all qualified research costs generating a rebate must be spent by the college or research corporation on qualified research undertaken according to a research agreement.

(e) "Research corporation" means any research corporation formed under Section 37-147-15 if the corporation is wholly owned by a college and all income and profits of the corporation inure to the benefit of the college.

(f) "Qualified research costs" means costs paid or incurred by an investor to a college or research corporation for qualified research undertaken according to a research agreement.

(g) "State" means the State of Mississippi or a governmental entity of the State of Mississippi.

(h) "IHL" means the Board of Trustees of State Institutions of Higher Learning in Mississippi.

(i) "SMART Business" means Strengthening Mississippi Academic Research Through Business.

SOURCES: Laws, 2013, ch. 540, § 2, eff from and after July 1, 2013.

§ 37-148-5. Eligibility for rebate for qualified research costs; application; claiming rebate; audit.

(1)(a) Subject to the provisions of this chapter, an investor incurring qualified research costs subject to a research agreement is eligible for a rebate equal to twenty-five percent (25%) of the investor's qualified research costs.

(b) An investor incurring research costs may not claim a rebate pursuant to this chapter greater than One Million Dollars ($1,000,000.00) in any fiscal year.

(c) The total amount of rebates issued under this chapter by the state in any fiscal year may not exceed Five Million Dollars ($5,000,000.00).

(2) Investors desiring to apply for the rebate authorized by this chapter shall submit an application to IHL which must contain, at a minimum, the following:

(a) A description of the qualified research to be conducted by the college or research corporation;

(b) A proposed budget;

(c) An estimated date for completion of the qualified research; and

(d) Such additional information as may be requested by IHL.

(3) IHL shall review each application to determine if the investor has satisfied all of the requirements of this section.

(4) Within sixty (60) days of receiving an application, IHL shall issue or refuse to issue a SMART Business certificate. The SMART Business certificate must include the amount of the rebate the investor is eligible to claim, subject to subsection (1) of this section. IHL must notify the Department of Revenue when a SMART Business certificate is issued.

(5) To claim a rebate, the investor must submit a rebate allocation claim to the Department of Revenue. The rebate allocation claim must include, at a minimum, the SMART Business certificate issued by IHL and proof of payment to the college or research corporation for qualified research conducted according to the research agreement.

(6) The Department of Revenue may request an audit from the investor submitting a rebate allocation claim, at the investor's expense, to verify the investor has satisfied the requirements of this chapter.

(7) The Department of Revenue shall issue rebates available under this section from current income tax collections.

(8) Rebates must be allocated to investors by the Department of Revenue in the order that SMART Business certificates are issued by IHL.

SOURCES: Laws, 2013, ch. 540, § 3, eff from and after July 1, 2013.

§ 37-148-7. Promulgation of rules and regulations.

IHL and the Department of Revenue each may promulgate, in accordance with the Mississippi Administrative Procedures Law, rules and regulations, application forms and any other forms necessary for the implementation and administration of this chapter.

SOURCES: Laws, 2013, ch. 540, § 4, eff from and after July 1, 2013.

§ 37-148-9. Annual report on implementation of chapter.

Before December 1 of each year, IHL shall file a report with the Governor, Secretary of the Senate and Clerk of the House of Representatives on the implementation of the Strengthening Mississippi Academic Research Through Business Act. For each research agreement where an investor was issued a SMART Business certificate during that year, the report must include, but not necessarily be limited to, the name of the investor and the rebate amount the investor was eligible to claim.

SOURCES: Laws, 2013, ch. 540, § 5, eff from and after July 1, 2013.

CHAPTER 149

Mississippi Teacher Center

Sec.	
37-149-1.	Mississippi Teacher Center established; staff; steering committee; duties; legislative findings; Mississippi Troops to Teachers pilot program established; collaboration with national program; status report.
37-149-3.	Mississippi Teacher Center; goals and functions.
37-149-5.	Repealed.
37-149-7.	Professional teacher recruiters; appointment; duties.

§ 37-149-1. Mississippi Teacher Center established; staff; steering committee; duties; legislative findings; Mississippi Troops to Teachers pilot program established; collaboration with national program; status report.

(1) There is established within the State Department of Education, the Mississippi Teacher Center for the purpose of insuring that the children of our state are taught by quality professionals. The center shall serve as an interagency center focused on teacher recruitment, enhanced training and initial instructional support.

(2) The center shall have a staff which shall consist of one (1) director, one (1) administrative assistant and professional teacher recruiters. A steering committee shall be established which shall consist of one (1) member from each of the following: the Board of Trustees of State Institutions of Higher Learning, the Mississippi Community College Board, the State Board of Education, the Board of the Mississippi Association of Independent Colleges, the Board of the Mississippi Association of Colleges of Teacher Education, trustees of the local school boards, teachers and the private sector. The members of the steering committee shall be appointed by the State Superintendent with the approval of the board. The steering committee shall direct the work and establish policies for the purpose of operating the center.

(3) The center shall provide leadership for the following initiatives:

(a) The initiation and monitoring of high school programs for teacher recruitment;

(b) The initiation and monitoring of college level programs for teacher recruitment;

(c) The establishment of a Beginning Teacher/Mentoring program, as authorized in Sections 37-9-201 through 37-9-213;

(d) The sponsorship of a teacher renewal institute;

(e) The continuation of the Teacher Corps program;

(f) The enhancement of the William Winter Scholarship program;

(g) Research for the development of professional teaching standards;

(h) Provide additional scholarships for any targeted populations needing potential teachers; and

(i) Provide assistance to local school districts in identifying and locating specific teacher needs.

(4)(a) The Legislature recognizes that a highly qualified teacher in every public classroom in this state is fundamental to a quality education. The Legislature also recognizes that Mississippi has a serious shortage of qualified teachers to serve in the public schools of this state and that it has a responsibility to enact public policy in an effort to remedy that shortage of qualified teachers.

(b) There is hereby established a Mississippi "Troops to Teachers" pilot program in the State Department of Education to assist in the recruitment, licensure, referral, placement and compensation of military personnel interested in beginning a second career in public education as a teacher. The Teacher Center in the State Department of Education shall collaborate with the national "Troops to Teachers" program to establish the criteria and procedures for allocation of funds provided by the federal government to administer the pilot program to ensure the most effective placement of such teachers around the state taking into consideration the degree of teacher shortage in each school district.

(c) The Legislature shall appropriate funds necessary for the support of this pilot program which will not supplant federal funds provided for that purpose. The Office of the Governor shall transfer any federal funds provided for the Mississippi "Troops to Teachers" program to the State Department of Education for the administration of this program.

(d) The Department of Education shall report to the Legislature no later than January 1, 2009, on the status of the implementation of the Mississippi "Troops to Teachers" program and the need for its continuation.

SOURCES: Laws, 1994, ch. 534, § 1; Laws, 1995, ch. 427, § 6; Laws, 1998, ch. 544, § 4; Laws, 2008, ch. 475, § 1; Laws, 2014, ch. 397, § 46, eff from and after July 1, 2014.

Editor's Note — Laws of 1998, ch. 544, which enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1, may be cited as the "Mississippi Critical Teacher Shortage Act of 1998" pursuant to Section 37-159-1.

The preamble to Laws of 1998, ch. 544, provides in pertinent part:

"WHEREAS, in many rural areas and communities in the State of Mississippi, particularly in the Mississippi Delta, there exists a critical shortage of qualified teachers that continues to grow at an increasing rate as the number of teachers in those areas who are eligible for retirement escalates while fewer college students aspire to a career in teaching; and

"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in (2).

Cross References — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

William F. Winter Teacher Scholar Loan Program, see § 37-143-11.

§ 37-149-3. Mississippi Teacher Center; goals and functions.

(1) The center shall place a priority on its function as a teacher recruitment center. In addition to its other duties, it shall publicize the importance of the teaching profession, operate a teacher placement service, and create and manage a teacher renewal institute.

(2) The center shall be authorized to phase into operation its designated functions. Full operation of all the functions of the center shall be in place and operating by July 1, 1996.

(3) The center shall develop in-service training materials and shall provide for the establishment of a corps of trainers.

SOURCES: Laws, 1994, ch. 534, § 2, eff from and after July 1, 1994.

§ 37-149-5. Repealed.

Repealed by Laws, 1997, ch. 357, § 1, eff from and after June 29, 1997. [Laws, 1994, ch. 534, § 3].

Editor's Note — Former § 37-149-5 provided for the repeal of §§ 37-149-1 through 37-149-5.

§ 37-149-7. Professional teacher recruiters; appointment; duties.

The State Superintendent of Public Education shall appoint three (3) persons to serve as professional teacher recruiters, who shall have the following duties:

(a) To educate high school students, through oral presentations made on the campuses of all public high schools and the distribution of written materials, on the importance of teaching as a profession, emphasizing the critical need for teachers in certain geographical areas of the state and the availability of financial scholarships to college students in exchange for service as a licensed teacher in such geographical areas under the Critical Needs Teacher Scholarship Program;

(b) To encourage assistant teachers in the public schools to pursue a college education that will enable them to become licensed teachers, informing all assistant teachers of the availability of financial scholarships to both full-time and part-time college students under the Critical Needs Teacher Scholarship Program;

(c) To actively recruit, both within the state and out-of-state, teachers to render service to the state as a licensed teacher in a geographical area of the state where there exists a critical shortage of teachers, as designated by the

State Board of Education, while receiving a scholarship to pursue a Master of Education degree or Educational Specialist degree at an institution of higher learning under the University Assisted Teacher Recruitment and Retention Grant Program;

(d) To actively recruit, both within the state and out-of-state, nonpracticing licensed teachers to return to the teaching profession to render service as a licensed teacher in a public school district in a geographical area of the state where there is a critical shortage of teachers, as designated by the State Board of Education;

(e) To actively recruit, both within the state and out-of-state, persons holding a baccalaureate degree in a field other than education who exhibit potential for a career in teaching to pursue a standard teaching license through the alternate teaching route; and

(f) To notify teachers of the availability of special home loans, subject to eligibility for persons who render service to the state as a licensed teacher in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education.

SOURCES: Laws, 1998, ch. 544, § 5, eff from and after passage (approved April 13, 1998).

Editor's Note — Laws of 1998, ch. 544, which enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1, may be cited as the "Mississippi Critical Teacher Shortage Act of 1998" pursuant to Section 37-159-1.

The preamble to Laws of 1998, ch. 544, provides in pertinent part:

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"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

Laws, 2008, ch. 416, § 1, provides:

"SECTION 1. The State Department of Education shall conduct a study to determine the need for and the potential benefits of establishing a career ladder opportunity program for assistant teachers employed in the public schools. The study must include suggestions on possible incentives and enhanced salary opportunities for: assistant teachers who continue their education toward the completion of a bachelor's degree that ultimately leads to the acquisition of a Standard License to teach in Mississippi; and assistant teachers who already possess a bachelor's degree and take steps that lead to the acquisition of a Standard License to teach. Before December 1, 2008, the department shall submit a report on the findings of this study, including recommendations on the implementation of such a program, to the Chairmen of the House and Senate Education and Appropriations Committees."

Cross References — State Board of Education, see Miss. Const. Art. 8, § 203.

State Board of Education generally, see §§ 37-1-1 et seq.

University Assisted Teacher Recruitment and Retention Grant Program, see § 37-159-9.

CHAPTER 151

Mississippi Accountability and Adequate Education Program Act of 1997

In General 37-151-1
Exemplary Performance Awards 37-151-11
Education Technology Enhancement 37-151-15
Enhancing School to Work Transition 37-151-63
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IN GENERAL

Sec.
37-151-1. Short title.
37-151-3. Repealed.
37-151-5. Definitions [Subparagraph (n)(ii) repealed effective July 1, 2016].
37-151-6. Mississippi Adequate Education Program funding.
37-151-7. Determination of annual allocations for current operation of schools under the adequate education program.
37-151-7.1. County tax assessors to provide State Department of Education certain information essential to determination of school district's contribution toward cost of Adequate Education Program.
37-151-8. State Board of Education to adopt regulations that require school districts receiving MAEP at-risk funds to use funds to implement programs to serve at-risk students; accountability for expenditure of funds.
37-151-9. Office of Educational Accountability established; director; duties and responsibilities.
37-151-10. Center for Education Analysis; powers and duties.

§ 37-151-1. Short title.

This chapter shall be known and may be cited as the "Mississippi Accountability and Adequate Education Program Act of 1997."

SOURCES: Laws, 1994, ch. 581, § 1; Laws, 1997, ch. 612, § 1, eff from and after passage (approved April 23, 1997) [See Editor's Note].

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Cross References — Commission on Restructuring the Mississippi Adequate Education Program (MAEP), see § 37-152-1 et seq.

§ 37-151-3. Repealed.

Repealed by Laws, 1997, ch. 612, § 30, eff from and after July 1, 2002.

[Laws, 1994, ch. 581, § 2, eff from and after passage (approved April 7, 1994).]

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Former § 37-151-3 required the State Department of Education to provide funding projections and comparisons for school districts.

For provisions in effect after July 1, 2002, see Mississippi Adequate Education Program, §§ 37-151-1 et seq.

§ 37-151-5. Definitions [Subparagraph (n)(ii) repealed effective July 1, 2016].

As used in Sections 37-151-5 and 37-151-7:

(a) "Adequate program" or "adequate education program" or "Mississippi Adequate Education Program (MAEP)" shall mean the program to establish adequate current operation funding levels necessary for the programs of such school district to meet at least a successful Level III rating of the accreditation system as established by the State Board of Education using current statistically relevant state assessment data.

(b) "Educational programs or elements of programs not included in the adequate education program calculations, but which may be included in appropriations and transfers to school districts" shall mean:

(i) "Capital outlay" shall mean those funds used for the constructing, improving, equipping, renovating or major repairing of school buildings or other school facilities, or the cost of acquisition of land whereon to construct or establish such school facilities.

(ii) "Pilot programs" shall mean programs of a pilot or experimental nature usually designed for special purposes and for a specified period of time other than those included in the adequate education program.

(iii) "Adult education" shall mean public education dealing primarily with students above eighteen (18) years of age not enrolled as full-time public school students and not classified as students of technical schools, colleges or universities of the state.

(iv) "Food service programs" shall mean those programs dealing directly with the nutritional welfare of the student, such as the school lunch and school breakfast programs.

(c) "Base student" shall mean that student classification that represents the most economically educated pupil in a school system meeting the definition of successful, as determined by the State Board of Education.

(d) "Base student cost" shall mean the funding level necessary for providing an adequate education program for one (1) base student, subject to any minimum amounts prescribed in Section 37-151-7(1).

(e) "Add-on program costs" shall mean those items which are included in the adequate education program appropriations and are outside of the program calculations:

(i) "Transportation" shall mean transportation to and from public schools for the students of Mississippi's public schools provided for under law and funded from state funds.

(ii) "Vocational or technical education program" shall mean a secondary vocational or technical program approved by the State Department of Education and provided for from state funds.

(iii) "Special education program" shall mean a program for exceptional children as defined and authorized by Sections 37-23-1 through 37-23-9, and approved by the State Department of Education and provided from state funds.

(iv) "Gifted education program" shall mean those programs for the instruction of intellectually or academically gifted children as defined and provided for in Section 37-23-175 et seq.

(v) "Alternative school program" shall mean those programs for certain compulsory-school-age students as defined and provided for in Sections 37-13-92 and 37-19-22.

(vi) "Extended school year programs" shall mean those programs authorized by law which extend beyond the normal school year.

(vii) "University-based programs" shall mean those university-based programs for handicapped children as defined and provided for in Section 37-23-131 et seq.

(viii) "Bus driver training" programs shall mean those driver training programs as provided for in Section 37-41-1.

(f) "Teacher" shall include any employee of a local school who is required by law to obtain a teacher's license from the State Board of Education and who is assigned to an instructional area of work as defined by the State Department of Education.

(g) "Principal" shall mean the head of an attendance center or division thereof.

(h) "Superintendent" shall mean the head of a school district.

(i) "School district" shall mean any type of school district in the State of Mississippi, and shall include agricultural high schools.

(j) "Minimum school term" shall mean a term of at least one hundred eighty (180) days of school in which both teachers and pupils are in regular attendance for scheduled classroom instruction for not less than sixty-three percent (63%) of the instructional day, as fixed by the local school board for each school in the school district. It is the intent of the Legislature that any tax levies generated to produce additional local funds required by any school district to operate school terms in excess of one hundred seventy-five (175) days shall not be construed to constitute a new program for the purposes of exemption from the limitation on tax revenues as allowed under Sections 27-39-321 and 37-57-107 for new programs mandated by the Legislature.

(k) The term "transportation density" shall mean the number of transported children in average daily attendance per square mile of area served in a school district, as determined by the State Department of Education.

(*l*) The term "transported children" shall mean children being transported to school who live within legal limits for transportation and who are otherwise qualified for being transported to school at public expense as fixed by Mississippi state law.

(m) The term "year of teaching experience" shall mean nine (9) months of actual teaching in the public or private schools. In no case shall more than one (1) year of teaching experience be given for all services in one (1) calendar or school year. In determining a teacher's experience, no deduction shall be made because of the temporary absence of the teacher because of illness or other good cause, and the teacher shall be given credit therefor. Beginning with the 2003-2004 school year, the State Board of Education shall fix a number of days, not to exceed forty-five (45) consecutive school days, during which a teacher may not be under contract of employment during any school year and still be considered to have been in full-time employment for a regular scholastic term. If a teacher exceeds the number of days established by the State Board of Education that a teacher may not be under contract but may still be employed, that teacher shall not be credited with a year of teaching experience. In determining the experience of school librarians, each complete year of continuous, full-time employment as a professional librarian in a public library in this or some other state shall be considered a year of teaching experience. If a full-time school administrator returns to actual teaching in the public schools, the term "year of teaching experience" shall include the period of time he or she served as a school administrator. In determining the salaries of teachers who have experience in any branch of the military, the term "year of teaching experience" shall include each complete year of actual classroom instruction while serving in the military. In determining the experience of speech-language pathologists and audiologists, each complete year of continuous full-time post master's degree employment in an educational setting in this or some other state shall be considered a year of teaching experience. Provided, however, that school districts are authorized, in their discretion, to negotiate the salary levels applicable to certificated employees employed after July 1, 2009, who are receiving retirement benefits from the retirement system of another state, and the annual experience increment provided in Section 37-19-7 shall not be applicable to any such retired certificated employee.

(n)(i) The term "average daily attendance" shall be the figure which results when the total aggregate full-day attendance during the period or months counted is divided by the number of days during the period or months counted upon which both teachers and pupils are in regular attendance for scheduled classroom instruction, unless a pupil's absence is excused due to participation in an activity authorized by the State Board of Education under subparagraph (ii) of this paragraph, less the average daily attendance for self-contained special education classes. For purposes of determining and reporting attendance, a pupil must be present for at least sixty-three percent (63%) of the instructional day, as fixed by the local school board for each school in the school district, in order to be considered in full-day attendance. Prior to full implementation of the adequate education program the department shall deduct the average daily attendance for the alternative school program provided for in Section 37-19-22.

(ii) The State Board of Education shall define those activities necessitating a pupil's absence that, for purposes of determining and reporting attendance for average daily attendance purposes, must be considered an excused absence. Such activities include, but are not limited to: official organized events sponsored by the 4-H or Future Farmers of America (FFA); official organized junior livestock shows and rodeo events; official employment as a page at the State Capitol for the Mississippi House of Representatives or Senate; subject-matter field trips; athletic contests; student conventions; music festivals or contests; and any similar school-related activity designated by the State Board of Education. The State Board of Education shall prescribe the means by which a pupil's absence due to participation in an activity authorized by the board pursuant to this subparagraph must be verified. This subparagraph (ii) shall stand repealed on July 1, 2016.

(o) The term "local supplement" shall mean the amount paid to an individual teacher over and above the adequate education program salary schedule for regular teaching duties.

(p) The term "aggregate amount of support from ad valorem taxation" shall mean the amounts produced by the district's total tax levies for operations.

(q) The term "adequate education program funds" shall mean all funds, both state and local, constituting the requirements for meeting the cost of the adequate program as provided for in Section 37-151-7.

(r) "Department" shall mean the State Department of Education.

(s) "Commission" shall mean the Mississippi Commission on School Accreditation created under Section 37-17-3.

(t) The term "successful school district" shall mean a Level III school district as designated by the State Board of Education using current statistically relevant state assessment data.

(u) "Dual enrollment-dual credit programs" shall mean programs for potential or recent high school student dropouts to dually enroll in their home high school and a local community college in a dual credit program consisting of high school completion coursework and a credential, certificate or degree program at the community college, as provided in Section 37-15-38(19).

(v) "Charter school" means a public school that is established and operating under the terms of a charter contract between the school's governing board and the Mississippi Charter School Authorizer Board.

SOURCES: Laws, 1994, ch. 581, § 3; Laws, 1997, ch. 612, § 2; Laws, 2000, ch. 433, § 2; Laws, 2002, ch. 323, § 1; Laws, 2003, ch. 546, § 6; Laws, 2004, ch. 420, § 1; Laws, 2006, ch. 473, § 1; Laws, 2009, ch. 508, § 3; Laws, 2012, ch. 521, § 2; Laws, 2013, ch. 497, § 87; Laws, 2013, ch. 559, § 2, eff from and after July 1, 2013.

Joint Legislative Committee Note — Section 87 of ch. 497, Laws of 2013, effective from and after July 1, 2013 (approved April 17, 2013), amended this section. Section 2 of ch. 559, Laws of 2013, effective from and after July 1, 2013 (approved April 25, 2013), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision, and Publication authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication ratified the integration of these amendments as consistent with the legislative intent at the August 1, 2013, meeting of the Committee.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Section 37-19-22 referred to in (e)(v) and (n) was repealed by Laws of 2002, ch. 551, § 6, eff from and after July 1, 2002.

Amendment Notes — The 2012 amendment added (u).

The first 2013 amendment (ch. 497), added (v).

The second 2013 amendment (ch. 559), substituted "sixty-three percent (63%) of the instructional day, as fixed by the local school board for each school in the school district" for "sixty percent (60%) of the normal school day" at the end of (j); in (n)(i), inserted the subdivision (i) designation and "full-day" near the beginning and inserted language beginning "unless a pupil's absence" and ending "of this paragraph" and added the second sentence; added (n)(ii).

Cross References — Mississippi charter schools generally, see §§ 37-28-1 et seq.

Transportation of school pupils generally, see §§ 37-41-1 et seq.

ATTORNEY GENERAL OPINIONS

The State Board of Education may adopt a regulation concerning the definition of "adequate education program" to require that Level I or Level II school districts submitting plans for Interim School District Capital Expenditure funds show that their applications are tied to achieving Level III accreditation. Portis, July 16, 1997, A.G. Op. #97-0368.

If a school board determines that the partial time taught by a teacher in separate school years would total at least nine months of actual teaching then the requirements for a year of teaching experience are met; however, if it is clear that the employee was hired by the school district at a specific salary level and was paid accordingly for the work performed, the district may adjust the employee's level of experience prospectively, but there is no authority that would allow the district to award retroactive pay for work that has already been performed and for which an agreed upon compensation had already been provided. Chaney, Apr. 18, 2003, A.G. Op. 03-0150.

The Legislature intended to include the professional instructional or teaching experience of speech-language pathologists and audiologists in a "clinical setting" in determining their salaries for employment in the schools. This may include instructional or training experience gained in a private hospital. The professional experience in an "educational setting" should be determined on a case-by-case basis upon a review of the type of previous employment of speech-language pathologists and/or audiologists. Stimpson, Nov. 21, 2003, A.G. Op. 03-0549.

Teachers may add a partial year of teaching to another partial year of teaching in non-consecutive and different school years to total nine months of actual teaching to meet the requirements for a year of teaching. Further, teachers are not prohibited from combining partial years taught in different districts to meet the requirement for a year of teaching experience. Shepherd, Dec. 16, 2005, A.G. Op. 05-0586.

§ 37-151-6. Mississippi Adequate Education Program funding.

Effective with fiscal year 2007, the Legislature shall fully fund the Mississippi Adequate Education Program.

SOURCES: Laws, 2006, ch. 473, § 2, eff from and after passage (approved Mar. 24, 2006.)

Editor's Note — Laws of 2006, ch. 473, § 3 provided as follows:

"SECTION 3. (1) If sufficient funds are not available to fully fund the Mississippi Adequate Education Program (MAEP) for any of the fiscal years 2007, 2008 or 2009, the Legislature shall provide not less than the following amounts to fund the MAEP for those fiscal years: For fiscal year 2007, the amount shall be not less than One Billion Nine Hundred Seventy-three Million Forty thousand One Hundred Twelve Dollars ($1,973,040,112.00); for fiscal year 2008, the amount shall be not less than Two Billion Thirty-seven Million Two Hundred Twenty-six Thousand Five hundred Eighty-four Dollars ($2,037,226,584.00); and for fiscal year 2009, the amount shall be not less than Two Billion One hundred One Million Four Hundred Thirteen Thousand Fifty-six Dollars ($2,101,413,056.00). For fiscal year 2010, the Legislature shall provide not less than Two Billion One Hundred Sixty-five Million Five Hundred Ninety-nine Thousand Five Hundred Twenty-eight Dollars ($2,165,599,528.00) to fund the MAEP. The minimum amounts required by this section for the MAEP do not include the costs associated with other state mandated costs such as, but not limited to, teacher pay raises, increased costs of insurance and increased costs of employer contributions to the Public Employees' Retirement System, and any such associated costs increases shall be funded separately and in addition to the minimum amounts required by this section.

"(2) If sufficient funds are not available to fully fund the MAEP for any of the fiscal years 2007, 2008 or 2009, the funds required to be provided to school districts under this section shall be allocated and prorated using average daily attendance (ADA) for months one (1) through nine (9) of the second preceding year or months two (2) and three (3) of the preceding year, whichever is greater, for fiscal year 2007, 2008 or 2009, as the case may be. For fiscal year 2010, allocation of funds shall be based on months two (2) and three (3) ADA.

"(3) If sufficient funds are not available to fully fund the MAEP for any of the fiscal years 2007, 2008 or 2009, school districts experiencing at least three (3) consecutive years of growth in ADA shall receive an additional allocation of funds to fund that growth as follows: For fiscal year 2007, twenty-five percent (25%); for fiscal year 2008, fifty percent (50%); and for fiscal year 2009, seventy-five percent (75%). For fiscal year 2010, that growth shall be funded at one hundred percent (100%). The State Department of Education shall determine the percentage change from the prior year of each year of each school district's average of months two (2) and three (3) ADA for the three (3) immediately preceding school years of the year for which funds are being appropriated. For any school district that experiences a positive growth in the average of months two (2) and three (3) ADA each year of the three (3) years, the average percentage growth over the three-year period shall be multiplied times the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated. For fiscal year 2007, twenty-five percent (25%); for fiscal year 2008, fifty percent (50%); for fiscal year 2009, seventy-five percent (75%); and for fiscal year 2010, one hundred percent (100%) of the resulting amount shall be added to the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated to arrive at the ADA to be used in determining a school district's MAEP allocation. The district's ADA shall be computed and currently maintained in accordance with regulations promulgated by the State Board of Education."

§ 37-151-7. Determination of annual allocations for current operation of schools under the adequate education program.

The annual allocation to each school district for the operation of the adequate education program shall be determined as follows:

(1) **Computation of the basic amount to be included for current operation in the adequate education program.** — The following procedure shall be followed in determining the annual allocation to each school district:

(a) **Determination of average daily attendance.** — Effective with fiscal year 2011, the State Department of Education shall determine the percentage change from the prior year of each year of each school district's average of months two (2) and three (3) average daily attendance (ADA) for the three (3) immediately preceding school years of the year for which funds are being appropriated. For any school district that experiences a positive growth in the average of months two (2) and three (3) ADA each year of the three (3) years, the average percentage growth over the three-year period shall be multiplied times the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated. The resulting amount shall be added to the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated to arrive at the ADA to be used in determining a school district's MAEP allocation. Otherwise, months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated will be used in determining a school district's MAEP allocation. In any fiscal year prior to 2010 in which the MAEP formula is not fully funded, for those districts that do not demonstrate a three-year positive growth in months two (2) and three (3) ADA, months one (1) through nine (9) ADA of the second preceding year for which funds are being appropriated or months two (2) and three (3) ADA of the preceding year for which funds are being appropriated, whichever is greater, shall be used to calculate the district's MAEP allocation. The district's average daily attendance shall be computed and currently maintained in accordance with regulations promulgated by the State Board of Education. The district's average daily attendance shall include any student enrolled in a Dual Enrollment-Dual Credit Program as defined and provided in Section 37-15-38(19). The State Department of

Education shall make payments for Dual Enrollment-Dual Credit Programs to the home school in which the student is enrolled, in accordance with regulations promulgated by the State Board of Education. The community college providing services to students in a Dual Enrollment-Dual Credit Program shall require payment from the home school district for services provided to such students at a rate of one hundred percent (100%) of ADA. All MAEP/state funding shall cease upon completion of high school graduation requirements.

(b) **Determination of base student cost.** — Effective with fiscal year 2011 and every fourth fiscal year thereafter, the State Board of Education, on or before August 1, with adjusted estimate no later than January 2, shall submit to the Legislative Budget Office and the Governor a proposed base student cost adequate to provide the following cost components of educating a pupil in a successful school district: (i) instructional cost; (ii) administrative cost; (iii) operation and maintenance of plant; and (iv) ancillary support cost. For purposes of these calculations, the Department of Education shall utilize financial data from the second preceding year of the year for which funds are being appropriated.

For the instructional cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of a number of teachers per one thousand (1,000) students that is between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average of teachers per one thousand (1,000) students. The instructional cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA into the instructional expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 1110-1199 Objects 100-999, Functions 1210, 1220, 2150-2159 Objects 210 and 215;
Fund 1130 All Functions, Object Code 210 and 215;
Fund 2001 Functions 1110-1199 Objects 100-999;
Fund 2070 Functions 1110-1199 Objects 100-999;
Fund 2420 Functions 1110-1199 Objects 100-999;
Fund 2711 All Functions, Object Code 210 and 215.

Prior to the calculation of the instructional cost component, there shall be subtracted from the above expenditures any revenue received for Chickasaw Cession payments, Master Teacher Certification payments and the district's portion of state revenue received from the MAEP at-risk allocation.

For the administrative cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of an administrative staff to nonadministrative staff between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average administrative staff to nonadministrative staff. The administrative cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA of the selected districts into the administrative expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 2300-2599, Functions 2800-2899, Objects 100-999;
Fund 2711 Functions 2300-2599, Functions 2800-2899, Objects 100-999.

For the plant and maintenance cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of plant and maintenance expenditures per one hundred thousand (100,000) square feet of building space and a ratio of maintenance workers per one hundred thousand (100,000) square feet of building space that are both between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average. The plant and maintenance cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA of the selected districts into the plant and maintenance expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 2600-2699, Objects 100-699 and Objects 800-999;
Fund 2711 Functions 2600-2699, Objects 100-699 and Objects 800-999;
Fund 2430 Functions 2600-2699, Objects 100-699 and Objects 800-999.

For the ancillary support cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of a number of librarians, media specialists, guidance counselors and psychologists per one thousand (1,000) students that is between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average of librarians, media specialists, guidance counselors and psychologists per one thousand (1,000) students. The ancillary cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA into the ancillary expenditures instructional expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 2110-2129, Objects 100-999;
Fund 1120 Functions 2140-2149, Objects 100-999;
Fund 1120 Functions 2220-2229, Objects 100-999;
Fund 2001 Functions 2100-2129, Objects 100-999;
Fund 2001 Functions 2140-2149, Objects 100-999;
Fund 2001 Functions 2220-2229, Objects 100-999.

The total base cost for each year shall be the sum of the instructional cost component, administrative cost component, plant and maintenance cost component and ancillary support cost component, and any estimated adjustments for additional state requirements as determined by the State Board of Education. Provided, however, that the base student cost in fiscal year 1998 shall be Two Thousand Six Hundred Sixty-four Dollars ($2,664.00).

For each of the fiscal years between the recalculation of the base student cost under the provisions of this paragraph (b), the base student cost shall be increased by an amount equal to forty percent (40%) of the base student cost for the previous fiscal year, multiplied by the latest annual rate of inflation for the State of Mississippi as determined by the State Economist, plus any adjustments for additional state requirements such as, but not limited to, teacher pay raises and health insurance premium increases.

(c) **Determination of the basic adequate education program cost.** — The basic amount for current operation to be included in the Mississippi Adequate Education Program for each school district shall be computed as follows:

Multiply the average daily attendance of the district by the base student cost as established by the Legislature, which yields the total base program cost for each school district.

(d) **Adjustment to the base student cost for at-risk pupils.** — The amount to be included for at-risk pupil programs for each school district shall be computed as follows: Multiply the base student cost for the appropriate fiscal year as determined under paragraph (b) by five percent (5%), and multiply that product by the number of pupils participating in the federal free school lunch program in such school district, which yields the total adjustment for at-risk pupil programs for such school district.

(e) **Add-on program cost.** — The amount to be allocated to school districts in addition to the adequate education program cost for add-on programs for each school district shall be computed as follows:

(i) Transportation cost shall be the amount allocated to such school district for the operational support of the district transportation system from state funds.

(ii) Vocational or technical education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(iii) Special education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(iv) Gifted education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(v) Alternative school program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(vi) Extended school year programs shall be the amount allocated to school districts for those programs authorized by law which extend beyond the normal school year.

(vii) University-based programs shall be the amount allocated to school districts for those university-based programs for handicapped children as defined and provided for in Section 37-23-131 et seq., Mississippi Code of 1972.

(viii) Bus driver training programs shall be the amount provided for those driver training programs as provided for in Section 37-41-1, Mississippi Code of 1972.

The sum of the items listed above (i) transportation, (ii) vocational or technical education, (iii) special education, (iv) gifted education, (v) alternative school, (vi) extended school year, (vii) university-based, and (viii) bus driver training shall yield the add-on cost for each school district.

(f) **Total projected adequate education program cost.** — The total Mississippi Adequate Education Program cost shall be the sum of the total basic adequate education program cost (paragraph (c)), and the adjustment to the base student cost for at-risk pupils (paragraph (d)) for each school district. In any year in which the MAEP is not fully funded, the Legislature shall direct the Department of Education in the K-12 appropriation bill as to how to allocate MAEP funds to school districts for that year.

(g) The State Auditor shall annually verify the State Board of Education's estimated calculations for the Mississippi Adequate Education Program that are submitted each year to the Legislative Budget Office on August 1 and the final calculation that is submitted on January 2.

(2) **Computation of the required local revenue in support of the adequate education program.** — The amount that each district shall provide toward the cost of the adequate education program shall be calculated as follows:

(a) The State Department of Education shall certify to each school district that twenty-eight (28) mills, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grants as determined by the State Department of Education, is the millage rate required to provide the district required local effort for that year, or twenty-seven percent (27%) of the basic adequate education program cost for such school district as determined under paragraph (c), whichever is a lesser amount. In the case of an agricultural high school, the millage requirement shall be set at a level which generates an equitable amount per pupil to be determined by the State Board of Education. The local contribution amount for school districts in which there is located one or more charter schools will be calculated using the following methodology: using the adequate education program twenty-eight (28) mill value, or the twenty-seven percent (27%) cap amount (whichever is less) for each school district in which a charter school is located, an average per pupil amount will be calculated. This average per pupil amount will be multiplied times the number of students attending the charter school in that school district. The sum becomes the charter school's local contribution to the adequate education program.

(b) The State Department of Education shall determine the following from the annual assessment information submitted to the department by the tax assessors of the various counties: (i) the total assessed valuation of nonexempt property for school purposes in each school district; (ii) assessed value of exempt property owned by homeowners aged sixty-five (65) or older or disabled as defined in Section 27-33-67(2), Mississippi Code of 1972; (iii) the school district's tax loss from exemptions provided to applicants under the age of sixty-five (65) and not disabled as defined in Section 27-33-67(1), Mississippi Code of 1972; and (iv) the school district's homestead reimbursement revenues.

(c) The amount of the total adequate education program funding which shall be contributed by each school district shall be the sum of the ad valorem receipts generated by the millage required under this subsection plus the following local revenue sources for the appropriate fiscal year which are or may be available for current expenditure by the school district:

One hundred percent (100%) of Grand Gulf income as prescribed in Section 27-35-309.

One hundred percent (100%) of any fees in lieu of taxes as prescribed in Section 27-31-104.

(3) **Computation of the required state effort in support of the adequate education program. —**

(a) The required state effort in support of the adequate education program shall be determined by subtracting the sum of the required local tax effort as set forth in subsection (2)(a) of this section and the other local revenue sources as set forth in subsection (2)(c) of this section in an amount not to exceed twenty-seven percent (27%) of the total projected adequate education program cost as set forth in subsection (1)(f) of this section from the total projected adequate education program cost as set forth in subsection (1)(f) of this section.

(b) Provided, however, that in fiscal year 2015, any increase in the said state contribution to any district calculated under this section shall be not less than six percent (6%) in excess of the amount received by said district from state funds for fiscal year 2002; in fiscal year 2016, any increase in the said state contribution to any district calculated under this section shall be not less than four percent (4%) in excess of the amount received by said district from state funds for fiscal year 2002; in fiscal year 2017, any increase in the said state contribution to any district calculated under this section shall be not less than two percent (2%) in excess of the amount received by said district from state funds for fiscal year 2002; and in fiscal year 2018 and thereafter, any increase in the said state contribution to any district calculated under this section shall be zero percent (0%). For purposes of this paragraph (b), state funds shall include minimum program funds less the add-on programs, State Uniform Millage Assistance Grant Funds, Education Enhancement Funds appropriated for Uniform Millage Assistance Grants and state textbook allocations, and State General Funds allocated for textbooks.

(c) If the school board of any school district shall determine that it is not economically feasible or practicable to operate any school within the district for the full one hundred eighty (180) days required for a school term of a scholastic year as required in Section 37-13-63, Mississippi Code of 1972, due to an enemy attack, a man-made, technological or natural disaster in which the Governor has declared a disaster emergency under the laws of this state or the President of the United States has declared an emergency or major disaster to exist in this state, said school board may notify the State Department of Education of such disaster and submit a plan for altering the school term. If the State Board of Education finds such disaster to be the cause of the school not operating for the contemplated school term and that such school was in a school district covered by the Governor's or President's disaster declaration, it may permit said school board to operate the schools in its district for less than one hundred eighty (180) days and, in such case, the State Department of Education shall not reduce the state contributions to the adequate education program allotment for such district, because of the failure to operate said schools for one hundred eighty (180) days.

(4) The Interim School District Capital Expenditure Fund is hereby established in the State Treasury which shall be used to distribute any funds specifically appropriated by the Legislature to such fund to school districts entitled to increased allocations of state funds under the adequate education program funding formula prescribed in Sections 37-151-3 through 37-151-7, Mississippi Code of 1972, until such time as the said adequate education program is fully funded by the Legislature. The following percentages of the total state cost of increased allocations of funds under the adequate education program funding formula shall be appropriated by the Legislature into the Interim School District Capital Expenditure Fund to be distributed to all school districts under the formula: Nine and two-tenths percent (9.2%) shall be appropriated in fiscal year 1998, twenty percent (20%) shall be appropriated in fiscal year 1999, forty percent (40%) shall be appropriated in fiscal year 2000, sixty percent (60%) shall be appropriated in fiscal year 2001, eighty percent (80%) shall be appropriated in fiscal year 2002, and one hundred percent (100%) shall be appropriated in fiscal year 2003 into the State Adequate Education Program Fund. Until July 1, 2002, such money shall be used by school districts for the following purposes:

(a) Purchasing, erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including gymnasiums, auditoriums, lunchrooms, vocational training buildings, libraries, school barns and garages for transportation vehicles, school athletic fields and necessary facilities connected therewith, and purchasing land therefor. Any such capital improvement project by a school district shall be approved by the State Board of Education, and based on an approved long-range plan. The State Board of Education shall promulgate minimum requirements for the approval of school district capital expenditure plans.

(b) Providing necessary water, light, heating, air-conditioning, and sewerage facilities for school buildings, and purchasing land therefor.

(c) Paying debt service on existing capital improvement debt of the district or refinancing outstanding debt of a district if such refinancing will result in an interest cost savings to the district.

(d) From and after October 1, 1997, through June 30, 1998, pursuant to a school district capital expenditure plan approved by the State Department of Education, a school district may pledge such funds until July 1, 2002, plus funds provided for in paragraph (e) of this subsection (4) that are not otherwise permanently pledged under such paragraph (e) to pay all or a portion of the debt service on debt issued by the school district under Sections 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65, Mississippi Code of 1972, or lease-purchase contracts entered into pursuant to Section 31-7-13, Mississippi Code of 1972, or to retire or refinance outstanding debt of a district, if such pledge is accomplished pursuant to a written contract or resolution approved and spread upon the minutes of an official meeting of the district's school board or board of supervisors. It is the intent of this provision to allow school districts to irrevocably pledge their Interim School District Capital Expenditure Fund allotments as a constant stream of revenue to secure a debt issued under the foregoing code sections. To allow school districts to make such an irrevocable pledge, the state shall take all action necessary to ensure that the amount of a district's Interim School District Capital Expenditure Fund allotments shall not be reduced below the amount certified by the department or the district's total allotment under the Interim Capital Expenditure Fund if fully funded, so long as such debt remains outstanding.

(e) [Repealed]

(f) [Repealed]

(g) The State Board of Education may authorize the school district to expend not more than twenty percent (20%) of its annual allotment of such funds or Twenty Thousand Dollars ($20,000.00), whichever is greater, for technology needs of the school district, including computers, software, telecommunications, cable television, interactive video, film, low-power television, satellite communications, microwave communications, technology-based equipment installation and maintenance, and the training of staff in the use of such technology-based instruction. Any such technology expenditure shall be reflected in the local district technology plan approved by the State Board of Education under Section 37-151-17, Mississippi Code of 1972.

(h) To the extent a school district has not utilized twenty percent (20%) of its annual allotment for technology purposes under paragraph (g), a school district may expend not more than twenty percent (20%) of its annual allotment or Twenty Thousand Dollars ($20,000.00), whichever is greater, for instructional purposes. The State Board of Education may authorize a school district to expend more than said twenty percent (20%)

of its annual allotment for instructional purposes if it determines that such expenditures are needed for accreditation purposes.

(i) The State Department of Education or the State Board of Education may require that any project commenced under this section with an estimated project cost of not less than Five Million Dollars ($5,000,000.00) shall be done only pursuant to program management of the process with respect to design and construction. Any individuals, partnerships, companies or other entities acting as a program manager on behalf of a local school district and performing program management services for projects covered under this subsection shall be approved by the State Department of Education.

Any interest accruing on any unexpended balance in the Interim School District Capital Expenditure Fund shall be invested by the State Treasurer and placed to the credit of each school district participating in such fund in its proportionate share.

The provisions of this subsection (4) shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards.

(5) The State Department of Education shall make payments to charter schools for each student in average daily attendance at the charter school equal to the state share of the adequate education program payments for each student in average daily attendance at the school district in which the public charter school is located. In calculating the local contribution for purposes of determining the state share of the adequate education program payments, the department shall deduct the pro rata local contribution of the school district in which the student resides as determined in subsection (2)(a) of this section.

SOURCES: Laws, 1994, ch. 581, § 4; Laws, 1997, ch. 612, § 3; Laws, 2002, ch. 551, § 1; Laws, 2003, ch. 544, § 2; Laws, 2004, ch. 583, § 1; Laws, 2005, ch. 531, § 2; Laws, 2006, ch. 338, § 1; Laws, 2006, ch. 473, § 4; Laws, 2012, ch. 521, § 3; Laws, 2013, ch. 497, § 88; Laws, 2014, ch. 494, § 1, eff from and after passage (approved Apr. 16, 2014.)

Joint Legislative Committee Note — Section 1 of ch. 338, Laws of 2006, effective from and after July 1, 2006 (approved March 13, 2006), amended this section. Section 4 of ch. 473, Laws of 2006, effective from and after passage (approved March 24, 2006), also amended this section. As set out above, this section reflects the language of Section 4 of ch. 473, Laws of 2006, pursuant to the terms of Laws of 2006, ch. 473, § 5, as amended by Laws of 2006, ch. 550, § 7, which specifically provides that the amendments made to this section by ch. 473 supersede the amendments made by ch. 338.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Subsections (4)(e) and (f) were repealed by their own terms effective June 30, 1998.

Section 37-151-3 referred to in (4) was repealed by Laws, 1997, ch. 612, § 30, eff from and after July 1, 2002.

Laws of 2006, ch. 473, § 5, as amended by Laws of 2006, ch. 550, § 7, provides, in part, that the "amendments to Section 37-151-7 contained in Laws of 2006, ch. 473, § 4, shall supersede the amendments to that section contained in Laws of 2006, ch. 338, § 1."

Amendment Notes — The 2012 amendment added the last four sentences in (1)(a); made minor stylistic changes throughout (1)(b); and inserted "the following from the annual assessment information submitted to the department from the annual assessment information submitted to the department by the tax assessors of the various counties" near the beginning in (2)(b).

The 2013 amendment added the last three sentences in (2)(a) and added (5).

The 2014 amendment rewrote (3)(b), which read: "Provided, however, that in fiscal year 1998 and in the fiscal year in which the adequate education program is fully funded by the Legislature, any increase in the said state contribution to any district calculated under this section shall be not less than eight percent (8%) in excess of the amount received by said district from state funds for the fiscal year immediately preceding. For purposes of this paragraph (b), state funds shall include minimum program funds less the add-on programs, State Uniform Millage Assistance Grant Funds, Education Enhancement Funds appropriated for Uniform Millage Assistance Grants and state textbook allocations, and State General Funds allocated for textbooks."

Cross References — Add-on program costs, see §§ 37-151-79 et seq.

JUDICIAL DECISIONS

1. Funding and Eleventh Amendment immunity.

Where plaintiff parent sued defendant school district in state court alleging her child was sexually assaulted at school and obtained a judgment under the Mississippi Tort Claims Act, her later claims in federal court were properly held as barred due to res judicata; while school districts' sources of funding under Miss. Code Ann. § 37-45-21, 37-47-1 et seq., Miss. Code Ann. § 37-57-1, Miss. Code Ann. § 37-59-3, and Miss. Code Ann. § 37-151-7 were equally divided between local school districts and the state under Miss. Code Ann. § 11-46-7, Miss. Code Ann. § 11-46-16(2), and Miss. Code Ann. § 11-46-17(2), any judgment against the school district would be paid through the Tort Claims Fund and excess liability insurance, and thus, the school district was not considered an arm of the state entitled to Eleventh Amendment immunity. Black v. N. Panola Sch. Dist., 461 F.3d 584 (5th Cir. 2006).

ATTORNEY GENERAL OPINIONS

For the purpose of determining the minimum funding guarantee in Miss. Code Section 37-151-7(3), the phrase "fiscal year immediately preceding" means fiscal year 1997 for the five year phase-in period and fiscal year 2002 for calculations beginning fiscal year 2003. Portis, July 16, 1997, A.G. Op. #97-0368.

School districts that elect to use Interim School District Capital Expenditure funds to make capital improvements under subsections (5)(a) and (5)(d-g) of Miss. Code Section 37-151-7 must submit plans to the State Board of Education for approval, and if the district intends to issue State Aid Capital Improvement bonds to finance projects under (5)(b) or (c) of this section, exceed the limitations in 5(h) of this section, or the State Board of Education adopts regulations requiring approval of plans even though such bonds will not be issued, then the district must submit plans for approval to the State Board of Education. Portis, July 16, 1997, A.G. Op. #97-0368.

State Aid Capital Improvement Bonds issued by school districts pursuant to Miss. Code Section 37-151-7(5)(e) must be secured only by Mississippi Adequate Education Program Funds and may not exceed the statutory per pupil limit. Portis, July 16, 1997, A.G. Op. #97-0368.

During the window period provided by the repealer, the State Board of Education may issue bonds under Miss. Code Section 37-151-7(5)(f) for up to twenty years for the same amount and the same purposes as bonds which might have been alternatively issued under Miss. Code Section 37-151-7(5)(e). Portis, July 16, 1997, A.G. Op. #97-0368.

The Mississippi Board of Education may continue to approve plans and expenditures from the Interim School District Capital Expenditure Fund by a school district, and the Mississippi Department of Education has the authority continue to disperse funds as required from the Interim School District Capital Expenditure Fund into fiscal year 2003. Thompson, June 19, 2002, A.G. Op. #02-0367.

The Mississippi Department of Education is authorized to take any action with regard to Mississippi Adequate Education Program Act (MAEP) refunding bonds that it was authorized to take with regard to the original issuance of MAEP bonds. Likewise, even though the statutory language was repealed after the issuance of MAEP bonds, the state's obligation arising from Section 37-151-7(e) relating to the MAEP bonds would be applicable to MAEP refunding bonds as well, if that commitment is part and parcel of the original MAEP bond obligations. Bounds, Nov. 14, 2005, A.G. Op. 05-0530.

§ 37-151-7.1. County tax assessors to provide State Department of Education certain information essential to determination of school district's contribution toward cost of Adequate Education Program.

(1) Before February 1 of each year, the tax assessor of each county shall file a report or reports with the State Department of Education which provide information essential to the department in determining the amount that each school district shall be required to provide toward the cost of the Adequate Education Program Fund. A separate report must be filed for each school district or part of a school district situated in the county and must include the following information:

(a) The total assessed valuation of nonexempt property for school purposes in the school district;

(b) The assessed value of exempt property owned by homeowners aged sixty-five (65) or older or disabled, as defined in Section 27-33-67(2), in the school district;

(c) The school district's tax loss from exemptions provided to applicants under the age of sixty-five (65) and not disabled, as defined in Section 27-33-67(1); and

(d) The school district's homestead reimbursement revenues.

(2) The State Department of Education shall prepare and make available to the tax assessor of each county a form for the reports required under this section.

SOURCES: Laws, 2012, ch. 521, § 4, eff from and after July 1, 2012.

§ 37-151-8. State Board of Education to adopt regulations that require school districts receiving MAEP at-risk funds to use funds to implement programs to serve at-risk students; accountability for expenditure of funds.

The State Board of Education shall adopt rules and regulations that:

(a) Require school districts that receive allocations of Mississippi Adequate Education Program at-risk funds, as prescribed by Section 37-151-7(1)(d), to specifically target the expenditure of those funds to implement effective programs, as determined by the State Department of Education, to serve at-risk students; and

(b) Provide the methods by which school districts will be expected to account for all expenditures of at-risk funds and how school districts will be held accountable for the expenditure of at-risk funds.

SOURCES: Laws, 2008, ch. 462, § 5, eff from and after July 1, 2008.

§ 37-151-9. Office of Educational Accountability established; director; duties and responsibilities.

(1) The State Board of Education and State Superintendent of Education shall establish within the State Department of Education a special unit at the division level called the Office of Educational Accountability. The Director of the Office of Educational Accountability shall hold a position comparable to a deputy superintendent and shall be appointed by the State Board of Education with the advice and consent of the Senate. He shall serve at the will and pleasure of the State Board of Education and may employ necessary professional, administrative and clerical staff. The Director of the Office of Educational Accountability shall provide all reports to the Legislature, Governor, Mississippi Commission on School Accreditation and State Board of Education and respond to any inquiries for information.

(2) The Office of Educational Accountability is responsible for monitoring and reviewing programs developed under the Education Reform Act, the Mississippi Adequate Education Program Act of 1994, the Education Enhancement Fund, and subsequent education initiatives, and shall provide information, recommendations and an annual assessment to the Legislature, Governor, Mississippi Commission on School Accreditation and the State Board of Education. Commencing in 1995, the annual assessment of education reform programs shall be performed by the Office of Educational Accountability by December 1 of each year. The Office of Educational Accountability shall specifically monitor the implementation of Level III accreditation in all school districts, and shall make an assessment with recommendations to the 1996 Regular Session of the Legislature.

(3) In addition, the Office of Educational Accountability shall have the following specific duties and responsibilities:

(a) Developing and maintaining a system of communication with school district personnel;

(b) Provide opportunities for public comment on the current functions of the State Department of Education's programs, needed public education services and innovative suggestions;

(c) Assess both positive and negative impact on school districts of new education programs, including but not limited to The Mississippi Report Card and alternative school programs.

SOURCES: Laws, 1994, ch. 581, § 8, eff from and after July 1, 1994.

§ 37-151-10. Center for Education Analysis; powers and duties.

(1) There is established a Center for Education Analysis which shall be an advisory group attached to the Public Education Forum of Mississippi. The Center for Education Analysis shall create a structure to systematically collect, compile and coordinate data that can be disseminated to business, legislative and education entities for decision-making purposes relating to public education. The Center for Education Analysis may enter into a contractual agreement with the Public Education Forum of Mississippi in order to place the Center within the administrative framework of the Public Education Forum under the following conditions:

(a) All new programs authorized in this section are subject to the availability of funds specifically appropriated therefor by the Legislature from the Education Enhancement Fund to the Public Education Forum for the support and maintenance of the programs of the Center for Education Analysis.

(b) The Public Education Forum will provide a business framework to coordinate its recommendations and reports with the programs of the Center for Education Analysis.

(c) The Public Education Forum shall employ a Director for the Center for Education Analysis with appropriate qualifications. Any public funds expended pursuant to this section shall be audited by the Mississippi Department of Audit.

There is created in the State Treasury a special fund to be known as the "Center for Education Analysis Fund." Monies may be expended out of such funds pursuant to appropriation by the Legislature, to implement the public education analysis program established under the provisions of this section. Disbursements from such fund shall be made only upon requisition of the Director for the Center for Education Analysis.

(2) The Center for Education Analysis established in subsection (1) shall develop and submit to the Legislature and the Governor an annual report on the implementation of the Mississippi Adequate Education Program funding formula and the Interim School District Capital Expenditure Fund program. The first report shall be submitted on January 1, 1999, relating to implementation of the adequate education program and interim capital expenditure program activities during the preceding fiscal year, and shall be submitted annually on January 1 of each subsequent year until January 1, 2003, at which

time the report shall become a distinct part of the Mississippi Report Card describing the one hundred percent (100%) implementation of the Mississippi Adequate Education Program funding formula. The annual report shall include the following:

(a) A description of the amount of Mississippi Adequate Education Program funds available to each school district during the phase-in period compared to the amount of funds available upon full implementation of the funding formula;

(b) A description of each school district's capital expenditure plan, including:

(i) A listing of the school district facilities to be constructed, purchased, repaired, renovated, remodeled or enlarged, with designation of the nature of each such project as new construction, retrofitting/renovation, or site work and/or preparation;

(ii) For each completed capital improvement project and upon the completion of any approved capital expenditure plan, a listing by individual project of:

(A) The total dimensions of each construction, renovation or site preparation project;

(B) The total project cost in dollars;

(C) The project cost per square foot of newly constructed space or, in the case of renovation, per square foot of the principal structure affected by such renovation;

(D) The total cost of all furniture and equipment per project;

(E) The total amount of nonconstruction fees per project;

(F) The total of other costs associated with the project not otherwise included in items (A) through (E) above; and

(G) The number of classrooms created and/or affected by the project;

(iii) A listing of all school district State Aid Capital Improvement Bonds secured by Mississippi Adequate Education Program funds issued by school districts and the capital improvements funded through such bond issue;

(iv) A description of any other local bond issue proceeds combined with such funds for capital improvement purposes; and

(v) Any other appropriate information relating to capital improvements by school districts as determined by the State Board of Education;

(c) An annual assessment of the impact of additional funding under the Mississippi Adequate Education Program on such school districts with less than a Level III accreditation; and

(d) An annual assessment of the impact of teacher recruitment incentives on the employment of licensed teachers in critical teacher shortage geographic areas, including, but not limited to, all incentive programs authorized under House Bill No. 609, 1998 Regular Session [Laws, 1998, ch. 544].

SOURCES: Laws, 1998, ch. 544, § 18, eff from and after passage (approved April 13, 1998).

Editor's Note — Laws of 1998, ch. 544, which enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1, may be cited as the "Mississippi Critical Teacher Shortage Act of 1998" pursuant to Section 37-159-1.

The preamble to Laws of 1998, ch. 544, provides in pertinent part:

"WHEREAS, in many rural areas and communities in the State of Mississippi, particularly in the Mississippi Delta, there exists a critical shortage of qualified teachers that continues to grow at an increasing rate as the number of teachers in those areas who are eligible for retirement escalates while fewer college students aspire to a career in teaching; and

"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

EXEMPLARY PERFORMANCE AWARDS

SEC.
37-151-11. "Teacher of the Year" Award Program.
37-151-13. "Mississippi Administrator of the Year" Award Program.

§ 37-151-11. "Teacher of the Year" Award Program.

The State Board of Education shall establish and design an annual program of awards for exemplary performing teachers in Mississippi's public school districts, to be called the "Mississippi Teacher of the Year" Award Program.

The board shall establish criteria and guidelines for making the annual award to one (1) exemplary performing teacher in Mississippi, which shall include a cash award of Five Thousand Dollars ($5,000.00) to be paid by the State Department of Education pursuant to appropriation therefor and shall be unrestricted as to its use by the recipient. Such award shall be paid as a supplement to such teacher's contracted salary in the year subsequent to receiving the recognition.

The State Board of Education shall utilize such awards to bring the best teaching practices to the attention of other schools. The awards shall include public recognition by the local school board and the State Board of Education and the awarding of plaques, certificates and the monetary award for teachers that perform well.

SOURCES: Laws, 1994, ch. 581, § 14, eff from and after July 1, 1994.

§ 37-151-13. "Mississippi Administrator of the Year" Award Program.

The State Board of Education shall establish and design an annual program of awards for exemplary performing administrators in Mississippi's public school districts, to be called the "Mississippi Administrator of the Year" Award Program.

The board shall establish criteria and guidelines for making the annual award to one (1) exemplary performing administrator in Mississippi, which shall include a cash award of Five Thousand Dollars ($5,000.00) to be paid by the State Department of Education pursuant to appropriation therefor and shall be unrestricted as to its use by the recipient. Such award shall be paid as a supplement to such administrator's contracted salary in the year subsequent to receiving the recognition.

The State Board of Education shall utilize such awards to bring the best administrative practices to the attention of other schools. The awards shall include public recognition by the local school board and the State Board of Education and the awarding of plaques, certificates and the monetary award for administrators that perform well.

SOURCES: Laws, 1994, ch. 581, § 17, eff from and after July 1, 1994.

EDUCATION TECHNOLOGY ENHANCEMENT

Sec.	
37-151-15 through 37-151-23.	Repealed.
37-151-25.	Tech-Prep Fund; purposes; funded community college programs must admit qualifying high school graduates.
37-151-27 through 37-151-57.	Repealed
37-151-59.	Effect of chapter on school district bonds.
37-151-61.	Appeal of grievances of school board.

§§ 37-151-15 through 37-151-23. Repealed.

Repealed by Laws, 2011, ch. 374, § 1, effective from and after July 1, 2011.

§ 37-151-15. [Laws, 1994, ch. 581, § 18, eff from and after July 1, 1994.]

§ 37-151-17. [Laws, 1994, ch. 581, § 19; Laws, 1995, ch. 518, § 1; Laws, 2002, ch. 329, § 2; Laws, 2004, ch. 588, § 1; Laws, 2005, ch. 393, § 1; Laws, 2010, ch. 541, § 1, eff from and after passage (approved Apr. 27, 2010.)]

§ 37-151-19. [Laws, 1994, ch. 581, § 20; Laws, 2004, ch. 588, § 2, eff from and after passage (approved May 27, 2004.)]

§ 37-151-21. [Laws, 1994, ch. 581, § 21; Laws, 2004, ch. 588, § 3, eff from and after passage (approved May 27, 2004.)]

§ 37-151-23. [Laws, 1994, ch. 581, § 22; Laws, 2005, ch. 521, § 1, eff from and after passage (approved Apr. 20, 2005.)]

Editor's Note — Former § 37-151-15 provided the purpose of and definitions for terms used in §§ 37-151-15 through 37-151-61.

Former § 37-151-17 established the Council for Education Technology, prescribed its membership and defined its responsibilities.

Former § 37-151-19 required the Council for Education Technology to develop and implement a master plan for education technology.

Former § 37-151-21 required the Council for Education Technology to create a strategic plan for distance learning.

Former § 37-151-23 created the State Public School Education Technology Fund.

§ 37-151-25. Tech-Prep Fund; purposes; funded community college programs must admit qualifying high school graduates.

There is hereby created in the State Treasury a special fund to be designated as the "Tech-Prep Fund." Any unexpended balance in said fund at the end of the fiscal year shall carry over to the succeeding fiscal year and shall not lapse into the State General Fund. The fund shall be credited with any funds appropriated by the Legislature for the implementation of the Tech-Prep program in Grades 7-12 and in the public community colleges and junior colleges through approved programs and from the proceeds of bonds issued under Sections 31 through 51 of Laws, 1997, Chapter 612, and shall be allocated to school districts by the State Board of Education for the following purposes:

(a) Equip labs for hands-on: Career Discovery Course in the 7th grade, Computer Discovery Course in the 8th grade, and Technology Discovery Course in the 9th grade;

(b) Implement application based teaching methodology in existing academic courses;

(c) Develop and implement articulation, integration and sequential course study plans in Vocational and Academic courses;

(d) Administer Occupational Tests;

(e) Implement and Update Career/Educational Plans for each student;

(f) Implement Career Centers for each school;

(g) To provide equipment upgrades to meet technology demands, staff development and teaching materials to implement application based methodology for each of the community college sites.

The State Department of Education is authorized to escalate spending authority based upon the proceeds of bonds issued under Sections 31 through 51 of Laws, 1997, Chapter 612.

No community or junior college shall deny admittance into its Tech-Prep program funded under this section to any student who has graduated from high school with a qualifying grade point average, regardless of the curriculum or course work completed by the student.

SOURCES: Laws, 1994, ch. 581, § 23; Laws, 1995, ch. 424, § 1; Laws, 1997, ch. 612, § 51; Laws, 2005, ch. 521, § 2, eff from and after passage (approved Apr. 20, 2005).

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

§§ 37-151-27 through 37-151-57. Repealed.

Repealed by Laws, 2005, ch. 522, § 9 effective from and after passage (approved April 20, 2005).

§§ 37-151-27 through 37-151-57 [Laws, 1994, ch. 581, §§ 24 through 39, eff from and after July 1, 1994.]

Editor's Note — Former §§ 37-151-27 through 37-151-57 authorized the issuance of State Education Technology bonds in the amount of Sixty Million Dollars ($60,000,000.00) for the State Public School Education Technology Fund and the Tech-Prep Fund.

§ 37-151-59. Effect of chapter on school district bonds.

Nothing in this chapter shall be construed to prohibit a school district from issuing its bonds, negotiable notes or certificates of indebtedness for the purposes, in the manner, to the extent and subject to the limitations provided by Sections 37-59-1 through 37-59-45, Mississippi Code of 1972, or any other applicable sections, and the authority granted by this article shall be construed as being additional, supplemental and cumulative thereto. The proceeds of the sale of any such bonds, negotiable notes or certificates of indebtedness so issued by any such school district may be used for the purpose for which they were issued and may be expended in conjunction with funds provided by the Council for Education Technology under the provisions of this article, or may be expended without such funds, if same be not available.

SOURCES: Laws, 1994, ch. 581, § 40, eff from and after July 1, 1994.

Editor's Note — Sections 37-151-15 through 37-151-23, which established the Council for Education Technology, referred to in this section, were repealed by Chapter 374, Laws of 2011, effective from and after July 1, 2011.

§ 37-151-61. Appeal of grievances of school board.

Any school board of any school district which may be aggrieved by any final rule, regulation or order of the State Board of Education adopted under the provisions of this chapter shall have the right to appeal therefrom to the chancery court of the county in which the school district involved or any part thereof is located in like manner, within the same time, with like effect, and subject in all other respects to appeals from orders, rules and regulations of the State Board of Education, the provisions of which are hereby made applicable in all respects to appeals from orders, rules and regulations of the commission under the provisions of this chapter.

SOURCES: Laws, 1994, ch. 581, § 41, eff from and after July 1, 1994.

ENHANCING SCHOOL TO WORK TRANSITION

SEC.
37-151-63. Work Force Education Act of 1994.
37-151-65. Legislative intent.
37-151-67. Definitions.
37-151-69 through 37-151-73. Repealed.
37-151-75. Mississippi Community College Board designated as primary support agency; powers.

§ 37-151-63. Work Force Education Act of 1994.

Sections 37-151-63 through 37-151-75 shall be known and may be cited as the "Work Force Education Act of 1994."

SOURCES: Laws, 1994, ch. 581, § 42; Laws, 1996, ch. 521, § 1, eff from and after July 1, 1996.

§ 37-151-65. Legislative intent.

It is the intent of the Legislature by the passage of Sections 37-151-63 through 37-151-75 to provide for the creation and development of a regionally based system in Mississippi for education and training which: responds to the needs of Mississippi's work force and employers; is driven by the demands of industry and a competitive economy; makes maximum use of limited resources; and provides for continuing improvement through constant assessment of the results of education and training for individual workers and employers.

SOURCES: Laws, 1994, ch. 581, § 43, eff from and after July 1, 1994.

§ 37-151-67. Definitions.

For purposes of Sections 37-151-63 through 37-151-75, the following words and phrases shall have the meanings respectively ascribed in this section unless the context clearly indicates otherwise:

(a) "State council" means the Mississippi Work Force Development Advisory Council; and

(b) "District councils" means the District Work Force Development Councils.

SOURCES: Laws, 1994, ch. 581, § 44; Laws, 1996, ch. 521, § 2, eff from and after July 1, 1996.

§§ 37-151-69 through 37-151-73. Repealed.

Repealed by Laws, 2004, ch. 572, § 58 eff from and after July 1, 2004.

§ 37-151-69. [Laws, 1994, ch. 581, § 45; Laws, 1996, ch. 521, § 3; Laws, 2002, ch. 329, § 3, eff from and after July 1, 2002.]

§ 37-151-71. [Laws, 1994, ch. 581, § 46; Laws, 1996, ch. 521, § 4, eff from and after July 1, 1996.]

§ 37-151-73. [Laws, 1994, ch. 581, § 47; Laws, 1996, ch. 521, § 5, eff from and after July 1, 1996.]

Editor's Note — Former Section 37-151-69 was entitled "Mississippi Work Force Development Council created; duties; membership; staff and administration."

Former Section 37-151-71 was entitled "District work force development councils; duties."

Former Section 37-151-73 was entitled "One-Stop Career Centers."

§ 37-151-75. Mississippi Community College Board designated as primary support agency; powers.

The Mississippi Community College Board is designated as the primary support agency to the career centers and district councils. The state board may exercise the following powers:

(a) To provide the career centers the assistance necessary to accomplish the purposes of Sections 37-151-63 through 37-151-75;

(b) To provide the career centers consistent standards and benchmarks to guide development of the local workforce development system and to provide a means by which the outcomes of local services can be measured;

(c) To develop the staff capacity to provide, broker or contract for the provision of technical assistance to the career centers, including, but not limited to:

(i) Training local staff in methods of recruiting, assessment and career counseling;

(ii) Establishing rigorous and comprehensive local pre-employment training programs;

(iii) Developing local institutional capacity to deliver Total Quality Management training;

(iv) Developing local institutional capacity to transfer new technologists into the marketplace;

(v) Expanding the Skills Enhancement Program and improving the quality of adult literacy programs; and

(vi) Developing data for strategic planning;

(d) To collaborate with the Department of Economic and Community Development and other economic development organizations to increase the community college systems' economic development potential;

(e) To administer presented and approved certification programs by the community colleges for tax credits and partnership funding for corporate training;

(f) To create and maintain an evaluation team that examines which kinds of curricula and programs and what forms of quality control of training are most productive so that the knowledge developed at one (1) institution of education can be transferred to others;

(g) To develop internal capacity to provide services and to contract for services from universities and other providers directly to local institutions;

(h) To develop and administer an incentive certification program; and

(i) To develop and hire staff and purchase equipment necessary to accomplish the goals set forth in this section.

SOURCES: Laws, 1994, ch. 581, § 48; Laws, 1996, ch. 521, § 6; Laws, 2014, ch. 397, § 47, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in the introductory paragraph.

Cross References — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

PUPIL-TEACHER RATIOS

SEC.
37-151-77. Pupil-teacher ratio.

§ 37-151-77. Pupil-teacher ratio.

To qualify for funds provided in this chapter, each school district shall not exceed a pupil-teacher ratio based on enrollment in Grades 1, 2, 3 and 4 as follows: 27:1.

For Grades Kindergarten and 5 through 12, pupil-teacher ratio shall be determined based on appropriate accreditation standards developed by the Mississippi Commission on School Accreditation.

Any local district may apply to the State Board of Education for approval of a waiver to this section by submitting and justifying an alternative educational program to serve the needs of enrollment in Grades Kindergarten and 1 through 4. The State Board of Education shall approve or disapprove of such waiver forty-five (45) days after receipt of such application. If a school district violates the provisions of this section, the state aid for the ensuing fiscal year to such school district shall be reduced by the percentage variance that the actual pupil-teacher ratios in such school district has to the required pupil-teacher ratios mandated in this section. Provided, that notwithstanding the provisions of this section, the State Board of Education is authorized to waive the pupil-teacher requirements specified herein upon a finding that a good faith effort is being made by the school district concerned to comply with the ratio provisions but that for lack of classroom space which was beyond its control it is physically impossible for the district to comply, and the cost of temporary classroom space cannot be justified. In the event any school district meets the highest levels of accreditation standards as determined by the State Board of Education in the state's accountability system, the State Board of Education may, in its discretion, exempt such school district from the maximum pupil-teacher ratio in Grades 1, 2, 3 and 4 prescribed herein.

SOURCES: Laws, 1997, ch. 612, § 4; Laws, 2009, ch. 445, § 10, eff from and after July 1, 2009.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

ADD-ON PROGRAM COSTS

SEC.

37-151-79. Allowance of state funds for vocational education programs.
37-151-81. Allowance of state funds for special education, gifted education and university-based programs.
37-151-83. Allowance of state funds for alternative school programs.
37-151-85. Transportation allowance.

§ 37-151-79. Allowance of state funds for vocational education programs.

In addition to other funds provided for in this chapter, there shall be added to the allotment for each school district for each vocational teacher employed full time during the regular school term in a vocational education program approved by the State Department of Education the value of one-half (½) of the adequate education program salary schedule provided in Section 37-19-7, Mississippi Code of 1972, based on the type of certificate and number of years' teaching experience held by each approved vocational teacher plus one hundred percent (100%) of the applicable employer's rate for Social Security and State Retirement.

SOURCES: Laws, 1997, ch. 612, § 5, eff from and after July 1, 2002.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

§ 37-151-81. Allowance of state funds for special education, gifted education and university-based programs.

(1) In addition to other funds provided for in this chapter, there shall be added to the allotment for each school district for each teacher employed in a State Department of Education approved program for exceptional children as defined in Section 37-23-3, Mississippi Code of 1972, the value of one hundred percent (100%) of the adequate education program salary schedule prescribed in Section 37-19-7, Mississippi Code of 1972, based on the type of certificate and number of years' teaching experience held by each approved special education teacher plus one hundred percent (100%) of the applicable employer's rate for Social Security and State Retirement, except that only seventy percent (70%) of the value will be added for the program for three- and four-year old exceptional children.

(2) In addition to the allowances provided above, for each handicapped child who is being educated by a public school district or is placed in accord with Section 37-23-77, Mississippi Code of 1972, and whose individualized

educational program (IEP) requires an extended school year in accord with the State Department of Education criteria, a sufficient amount of funds shall be allocated for the purpose of providing the educational services the student requires. The State Board of Education shall promulgate such regulations as are required to insure the equitable distribution of these funds. All costs for the extended school year for a particular summer shall be reimbursed from funds appropriated for the fiscal year beginning July 1 of that summer. If sufficient funds are not made available to finance all of the required educational services, the State Department of Education shall expend available funds in such a manner that it does not limit the availability of appropriate education to handicapped students more severely than it does to nonhandicapped students.

(3) The State Department of Education is hereby authorized to match adequate education program and other funds allocated for provision of services to handicapped children with Division of Medicaid funds to provide language-speech services, physical therapy and occupational therapy to handicapped students who meet State Department of Education or Division of Medicaid standards and who are Medicaid eligible. Provided further, that the State Department of Education is authorized to pay such funds as may be required as a match directly to the Division of Medicaid pursuant to an agreement to be developed between the State Department of Education and the Division of Medicaid.

(4) In addition to other funds provided for in this chapter, there shall be added to the allotment for each school district for each teacher employed in a State Department of Education approved program for gifted education as defined in Sections 37-23-173 through 37-23-181, Mississippi Code of 1972, the value of one hundred percent (100%) of the adequate education program salary schedule prescribed in Section 37-19-7, Mississippi Code of 1972, based on the type of certificate and number of years' teaching experience held by each approved gifted education teacher plus one hundred percent (100%) of the applicable employer's rate for Social Security and State Retirement.

(5) When any children who are residents of the State of Mississippi and qualify under the provisions of Section 37-23-31, Mississippi Code of 1972, shall be provided a program of education, instruction and training within a school under the provisions of said section, the State Department of Education shall allocate the value of one hundred percent (100%) of the adequate education program salary schedule prescribed in Section 37-19-7, Mississippi Code of 1972, for each approved program based on the type of certificate and number of years' teaching experience held by each approved teacher plus one hundred percent (100%) of the applicable employer's rate for Social Security and State Retirement. The university or college shall be eligible for state and federal funds for such programs on the same basis as local school districts. The university or college shall be responsible for providing for the additional costs of the program.

(6) In addition to the allotments provided above, a school district may provide a program of education and instruction to children ages five (5) years through twenty-one (21) years, who are resident citizens of the State of

Mississippi, who cannot have their educational needs met in a regular public school program and who have not finished or graduated from high school, if those children are determined by competent medical authorities and psychologists to need placement in a state licensed facility for inpatient treatment, day treatment or residential treatment or a therapeutic group home. Such program shall operate under rules, regulations, policies and standards of school districts as determined by the State Board of Education. If a private school approved by the State Board of Education is operated as an integral part of the state licensed facility that provides for the treatment of such children, the private school within the facility may provide a program of education, instruction and training to such children by requesting the State Department of Education to allocate one (1) teacher unit or a portion of a teacher unit for each approved class. The facility shall be responsible for providing any additional costs of the program.

Such funds will be allotted based on the type of certificate and number of years' teaching experience held by each approved teacher. Such children shall not be counted in average daily attendance when determining regular teacher unit allocation.

SOURCES: Laws, 1997, ch. 612, § 6, eff from and after July 1, 2002.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

§ 37-151-83. Allowance of state funds for alternative school programs.

(1) In addition to other funds allowed under the Adequate Education Program, each school district shall receive a grant for the support of alternative school programs established under Section 37-13-92, Mississippi Code of 1972, in accordance with the following: Three-fourths of one percent (.75%) of the school district's average daily attendance or twelve (12) pupils, whichever is greater, multiplied by the average expenditure of public monies per pupil in the State of Mississippi, as determined by the State Board of Education.

(2) An alternative school advisory board may be created within each school district maintaining a freestanding alternative school or two (2) or more adjacent school districts operating a freestanding alternative school pursuant to a contract approved by the State Board of Education. The advisory board shall meet no less than two (2) times during each school year to study the alternative school program and to make recommendations for improvements to the superintendent of the local school board or boards, as the case may be, and the State Superintendent of Education. The alternative school advisory board shall consist of the following members: one (1) school administrator to be appointed by each local school board of the school district or districts operating the alternative school; one (1) school board member and one (1) parent to be appointed by each superintendent of the school district or districts operating the alternative school; one (1) classroom teacher to be appointed by the

classroom teachers in each school district operating the alternative school; one (1) individual to be appointed by the local youth court judge, or if there is no such court the chancery court judge; and one (1) law enforcement officer to be appointed by the local sheriff. The initial members of the advisory board shall serve as follows: One-third (⅓) of the members shall serve two (2) years; one-third (⅓) of the members shall serve three (3) years; and one-third (⅓) of the members shall serve four (4) years, to be designated by the appointing authority at the time of appointment. Thereafter, the term of each member shall be for a period of four (4) years.

An alternative school advisory board shall have no governing authority over the alternative school program, and not in any manner shall an advisory board's authority supersede the authority of the school district or lead district in those alternative school programs operated jointly by two (2) or more districts.

SOURCES: Laws, 1997, ch. 612, § 7, eff from and after July 1, 2002.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

§ 37-151-85. Transportation allowance.

(1) The amount to be allotted by the State Board of Education for transportation shall be determined as follows:

The State Department of Education shall calculate the cost of transportation in school districts by ascertaining the average cost per pupil in average daily attendance of transported pupils in school districts classified in different density groups as determined by the State Department of Education. Based on these calculations, the State Department of Education shall develop a scale for determining the allowable cost per pupil in different density groups, which scale shall provide greatest allowance per pupil transported in school districts with lowest densities and smallest allowance per pupil in school districts with highest densities. The total allowance in the adequate education program for transported children for any school district for the current year shall be the average daily attendance of the transported children for the nine (9) months of the prior year, multiplied by the allowance per transported pupil as provided herein. However, the State Department of Education is hereby authorized and empowered to make proper adjustments in allotments, under rules and regulations of the State Board of Education, in cases where major changes in the number of children in average daily attendance transported occur from one (1) year to another as a result of changes or alterations in the boundaries of school districts, a change in or relocation of attendance centers, or for other reasons which would result in major decrease or increase in the number of children in average daily attendance transported during the current school year as compared with the preceding year. Moreover, the State Board of Education is hereby authorized and empowered to make such payments to all districts and/or university-based programs as deemed necessary in connection with transporting exceptional children as defined in Section 37-23-3. The State Board of Education shall establish and implement all necessary rules and regulations to allot transportation payments to university-based programs. In developing density classifications under the provisions hereof, the State Department of Education may give consideration to the length of the route, the sparsity of the population, the lack of adequate roads, highways and bridges, and the presence of large streams or other geographic obstacles. In addition to funds allotted under the above provisions, funds shall be allotted to each school district that transports students from their assigned school or attendance center to classes in an approved vocational-technical center at a rate per mile not to exceed the average statewide cost per mile of school bus transportation during the preceding year exclusive of bus replacement. All such transportation must have prior approval by the State Department of Education.

(2) The average daily attendance of transported children shall be reported by the school district in which such children attend school. If children living in a school district are transported at the expense of such school district to another school district, the average daily attendance of such transported children shall be deducted by the State Department of Education from the aggregate average daily attendance of transported children in the school district in which they attend school and shall be added to the aggregate average daily attendance of transported children of the school district from which they come for the purpose of calculating transportation allotments. However, such deduction shall not be made for the purpose of calculating adequate education program pupil-based funding.

(3) The State Department of Education shall include in the allowance for transportation for each school district an amount for the replacement of school buses or the purchase of new buses, which amount shall be calculated upon the estimated useful life of all school buses being used for the transportation of children in such school district, whether such buses be publicly or privately owned.

(4) The school boards of all districts operating school bus transportation are authorized and directed to establish a salary schedule for school bus drivers. No school district shall be entitled to receive the funds herein allotted for transportation unless it pays each of its nonstudent adult school bus drivers paid from such transportation allotments a minimum of One Hundred Ninety Dollars ($190.00) per month. In addition, local school boards may compensate school bus drivers, to include temporary or substitute bus drivers, for actual expenses incurred when acquiring an initial commercial license or any renewal of a commercial license in order to drive a school bus. In addition, local school boards may compensate school bus drivers, to include temporary or substitute bus drivers, for expenses, not to exceed One Hundred Dollars ($100.00), when acquiring an initial medical exam or any renewal of a medical exam, in order to qualify for a commercial driver's license.

(5) The State Board of Education shall be authorized and empowered to use such part of the funds appropriated for transportation in the adequate education fund as may be necessary to finance driver training courses as provided for in Section 37-41-1, Mississippi Code of 1972.

(6) The State Board of Education, acting through the Department of Education, may compensate school bus drivers, to include temporary or substitute bus drivers, who are providing driving services to the various state operated schools, such as the Mississippi School for the Deaf, the Mississippi School for the Blind, the Mississippi School of the Arts, the Mississippi School for Math and Science and any other similar state operated schools, for actual expenses incurred when acquiring an initial commercial license or any renewal of a commercial license in order to drive a school bus, to include the expense, not to exceed One Hundred Dollars ($100.00), of acquiring an initial medical exam or any renewal of a medical exam in order to qualify for a commercial driver's license.

SOURCES: Laws, 1997, ch. 612, § 8; Laws, 2004, ch. 366, § 1; Laws, 2005, ch. 531, § 3; Laws, 2006, ch. 336, § 1, eff from and after July 1, 2006.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Cross References — Mississippi School for the Blind, see Miss. Const. Art. 8, § 209 and Code §§ 43-5-1 et seq.

Mississippi School for the Deaf, see Miss. Const. Art. 8, § 209 and Code §§ 43-5-1 et seq.

Mississippi School for Mathematics and Science generally, see §§ 37-139-1 et seq.

Mississippi School of the Arts generally, see §§ 37-140-1 et seq.

ATTORNEY GENERAL OPINIONS

A school district may pay for a public school bus driver to obtain or renew a commercial drivers license. Manning, Feb. 2, 2006, A.G. Op. 05-0096.

A school district may adopt a policy which will allow it to pay school bus drivers for a medical examination expenses, not to exceed $100.00, in order for the driver to qualify for a commercial driver's license, and to adopt a policy which allows it to reimburse the driver for actual expenses, other than the cost of the medical examination, incurred in acquiring the license. Brister, Feb. 2, 2006, A.G. Op. 05-0075.

FUNDS FOR TEACHER SALARIES

Sec.	
37-151-87.	Reduction of local supplement or support from ad valorem taxation.
37-151-89.	Salary payments from other funds.
37-151-91.	Salary schedules.

§ 37-151-87. Reduction of local supplement or support from ad valorem taxation.

No school district shall pay any teacher less than the state minimum salary. Provided, however, that school districts are authorized to reduce the state minimum salary by a pro rata daily amount in order to comply with the school district employee furlough provisions of Section 37-7-308. From and after July 1, 2012, no school district shall receive any funds under the provisions of this chapter for any school year during which the aggregate amount of local supplement as defined in Section 37-151-5 shall have been reduced below such amount for the previous year. However, (a) where there has been a reduction in adequate education program allocations for such district in such year, (b) where there has been a reduction in the amount of federal funds to such district below the previous year, or (c) where there has been a reduction in ad valorem taxes to such school district for the 1986-1987 school year below the amount for the previous year due to the exemption of nuclear generating plants from ad valorem taxation pursuant to Section 27-35-309, Mississippi Code of 1972, the aggregate amount of local supplement in such district may be reduced in the discretion of the local school board without loss of funds under this chapter. No school district may receive any funds under the provisions of this chapter for any school year if the aggregate amount of support from ad valorem taxation shall be reduced during such school year below such amount for the previous year; however, where there is a loss in adequate education program allocations, or where there is or heretofore has been a decrease in the total assessed value of taxable property within a school district, the aggregate amount of such support may be reduced proportionately. Nothing herein contained shall prohibit any school district from adopting or continuing a program or plan whereby teachers are paid varying salaries according to the teaching ability, classroom performance and other similar standards.

SOURCES: Laws, 1997, ch. 612, § 9; Laws, 2010, ch. 486, § 4, eff from and after passage (approved Apr. 7, 2010.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the fourth line of this section. The reference to "Section 37-151-1" was changed to "Section 37-151-5." The Joint Committee ratified the correction at its August 5, 2008 meeting.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

ATTORNEY GENERAL OPINIONS

For a teacher making in excess of the minimum salary who is currently receiving a local supplement and who is due for a raise under § 37-119-7, assuming that the teacher is performing the same duties, the local supplement to that individual teacher cannot be reduced. However, in those counties in which there has been a reduction in adequate education program allocations, the provisions of this section would permit a reduction in aggregate amount of local supplements within the entire school district. However, no individual teacher's local supplement could be reduced. Chaney, June 18, 2004, A.G. Op. 04-0243.

§ 37-151-89. Salary payments from other funds.

The minimum base pay for all classroom teachers may be increased by the district from any funds available to it; and those districts which have not prior to July 1, 1978, so increased said base pay, shall increase the minimum base pay for classroom teachers as fixed by this chapter and as authorized by any of the provisions of or standards set forth in this chapter.

SOURCES: Laws, 1997, ch. 612, § 10, eff from and after July 1, 2002.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

§ 37-151-91. Salary schedules.

The school boards of all school districts may establish salary schedules based on training, experience and other such factors as may be incorporated therein, including student progress and performance as developed by the State Board of Education, paying teachers greater amounts than the scale provided herein, but no teacher may be paid less than the amount based upon the minimum scale of pay provided in the adequate education program as prescribed in Section 37-19-7, Mississippi Code of 1972, and all supplements paid from local funds shall be based upon the salary schedules so established. The school boards may call upon the State Department of Education for aid and assistance in formulating and establishing such salary schedules, and it shall be the duty of the State Department of Education, when so called upon, to render such aid and assistance. The amount actually paid to each teacher shall be based upon and determined by the type of certificate held by such teacher.

SOURCES: Laws, 1997, ch. 612, § 11, eff from and after July 1, 2002.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

FUNDS FOR TRANSFERRED STUDENTS

SEC.
37-151-93. Counting of legally transferred students; payment maintenance funds to transferee school.

§ 37-151-93. Counting of legally transferred students; payment maintenance funds to transferee school.

(1) Legally transferred students going from one school district to another shall be counted for adequate education program allotments by the school district wherein the pupils attend school, but shall be counted for transportation allotment purposes in the school district which furnishes or provides the transportation. The school boards of the school districts which approve the transfer of a student under the provisions of Section 37-15-31 shall enter into an agreement and contract for the payment or nonpayment of any portion of their local maintenance funds which they deem fair and equitable in support

of any transferred student. Except as provided in subsection (2) of this section, local maintenance funds shall be transferred only to the extent specified in the agreement and contract entered into by the affected school districts. The terms of any local maintenance fund payment transfer contract shall be spread upon the minutes of both of the affected school district school boards. The school district accepting any transfer students shall be authorized to accept tuition from such students under the provisions of Section 37-15-31(1) and such agreement may remain in effect for any length of time designated in the contract. The terms of such student transfer contracts and the amounts of any tuition charged any transfer student shall be spread upon the minutes of both of the affected school boards. No school district accepting any transfer students under the provisions of Section 37-15-31(2), which provides for the transfer of certain school district employee dependents, shall be authorized to charge such transfer students any tuition fees.

(2) Local maintenance funds shall be paid by the home school district to the transferee school district for students granted transfers under the provisions of Sections 37-15-29(3) and 37-15-31(3), Mississippi Code of 1972, not to exceed the "base student cost" as defined in Section 37-151-5, Mississippi Code of 1972, multiplied by the number of such legally transferred students.

SOURCES: Laws, 1997, ch. 612, § 12, eff from and after July 1, 2002.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

ATTORNEY GENERAL OPINIONS

A school district is authorized to accept tuition from nonresident students pursuant to the provisions of Section 37-15-31 and this section; however, nothing in the law requires a district to do so. Necaise, Dec. 20, 2002, A.G. Op. #02-0672.

FUNDS FOR EMPLOYEE HEALTH INSURANCE

SEC.	
37-151-95.	Payment for health insurance for certain school district employees; federal funding; withholding of district funding for failure to report data.

§ 37-151-95. Payment for health insurance for certain school district employees; federal funding; withholding of district funding for failure to report data.

Adequate education program funds shall include one hundred percent (100%) of the cost of the State and School Employees' Life and Health Insurance Plan created under Article 7, Chapter 15, Title 25, Mississippi Code of 1972, for all district employees who work no less than twenty (20) hours during each week and regular nonstudent school bus drivers employed by the district.

Where the use of federal funding is allowable to defray, in full or in part, the cost of participation in the insurance plan by district employees who work no less than twenty (20) hours during each week and regular nonstudent school bus drivers, whose salaries are paid, in full or in part, by federal funds, the allowance under this section shall be reduced to the extent of the federal funding. Where the use of federal funds is allowable but not available, it is the intent of the Legislature that school districts contribute the cost of participation for such employees from local funds, except that parent fees for child nutrition programs shall not be increased to cover such cost.

The State Department of Education, in accordance with rules and regulations established by the State Board of Education, may withhold a school district's adequate education program funds for failure of the district to timely report student, fiscal and personnel data necessary to meet state and/or federal requirements. The rules and regulations promulgated by the State Board of Education shall require the withholding of adequate education program funds for those districts that fail to remit premiums, interest penalties and/or late charges under the State and School Employees' Life and Health Insurance Plan. Noncompliance with such rules and regulations shall result in a violation of compulsory accreditation standards as established by the State Board of Education and Commission on School Accreditation.

SOURCES: Laws, 1997, ch. 612, § 13; Laws, 2002, ch. 551, § 2, eff from and after July 1, 2002 (date bill became law without the Governor's signature).

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Article 7, Chapter 15, Title 25 (§§ 25-15-251 through 25-15-265), referred to in this section, was repealed by Laws, 1999, ch. 511, § 11, effective from and after July 1, 1999. For present similar provisions, see § 25-15-3 et seq.

ATTORNEY GENERAL OPINIONS

Employees covered by the State and School Employees Health Insurance Plan who elect to retire and are re-employed under the limited conditions allowed by § 25-11-127 do not relinquish their status of "retiree" for the purposes of the retirement statutes or the state insurance statutes. Therefore, the state cannot pay the insurance premiums for retirees who are covered under the Plan who return to work under the limited conditions allowed by § 25-11-127. Hill, Nov. 7, 2003, A.G. Op. 03-0591.

DISTRIBUTION OF FUNDS

SEC.	
37-151-97.	Annual information report of State Department of Education.
37-151-99.	Preliminary estimate of education cost and amounts to be distributed.
37-151-101.	Distribution of funds.
37-151-103.	Payment of funds.

§ 37-151-97. Annual information report of State Department of Education.

The State Department of Education shall develop an annual reporting process to inform the Legislature, local district personnel and the general public as to the ongoing and future plans for the state's educational programs. The annual reporting process will include those vital statistics that are commonly reported by schools and districts and that can provide clear demographic, strategic and educational information to constituencies such as, but not limited to, the following information:

(a) Student enrollment, attendance, drop-out and graduation;

(b) Overall student and district achievement;

(c) Budget, administrative costs and other pertinent fiscal information, including:

(i) The receipts and disbursements of all school funds handled by the board;

(ii) Reports of expenditures for public schools, which, upon request must be made available on an individual district basis by the State Department of Education;

1. Total Student Expenditures:
   a. Instruction (1000s);
   b. Other Student Instructional Expenditures (2100s, 2200s);
2. General Administration (2300s and 2500s);
3. School Administration (2400s);
4. Other Expenditures (2600s, 2700s, 2800s, 3100s, 3200s); and
5. Nonoperational Expenditures (4000s, 5000s, 6000s);

(iii) The number of school districts, schoolteachers employed, school administrators employed, pupils taught and the attendance record of pupils therein;

(iv) County and district levies for each school district and agricultural high school;

(v) The condition of vocational education, a list of schools to which federal and state aid has been given, and a detailed statement of the expenditures of federal funds and the state funds that may be provided, and the ranking of subjects taught as compared with the state's needs.

(d) Other as directed by the State Board of Education.

Further, the reporting process will include an annual report developed specifically to relate the mission and goals of the State Board of Education, state superintendent and departments. This document will become the method through which the strategic planning and management process of the department is articulated to the public. It will explain and inform the public of the major initiatives of the department and clearly identify rationale for program development and/or elimination. The report will establish benchmarks, future plans and discuss the effectiveness of educational programs.

In addition to the information specified herein, the State Board of Education shall have full and plenary authority and power to require the furnishing of such further, additional and supplementary information as it may deem necessary for the purpose of determining the cost of the adequate education program in such school district for the succeeding fiscal year, the amount of the adequate education program funds to be allotted to each school district for the succeeding fiscal year, and for any other purpose authorized by law or deemed necessary by said State Board of Education.

It shall be the duty of the State Department of Education to prescribe the forms for the reports provided for in this section.

SOURCES: Laws, 1997, ch. 612, § 14; Laws, 2011, ch. 442, § 6, eff from and after July 1, 2011.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

§ 37-151-99. Preliminary estimate of education cost and amounts to be distributed.

Based upon the information obtained pursuant to Section 37-151-97 and upon such other and further information as provided by law, the State Department of Education shall, on or before June 1 of each year, or as soon thereafter as is practical, furnish each school board the preliminary estimate of the amount each will receive from the common school fund and the adequate education program fund for the succeeding scholastic year, and at the same time shall furnish each such school board with a tentative estimate of the cost of the adequate education program in the school district for such succeeding fiscal year.

SOURCES: Laws, 1997, ch. 612, § 15, eff from and after July 1, 2002.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

§ 37-151-101. Distribution of funds.

It shall be the duty of the State Department of Education to file with the State Treasurer and the State Fiscal Officer such data and information as may be required to enable the said State Treasurer and State Fiscal Officer to distribute the common school funds and adequate education program funds by electronic funds transfer to the several school districts and charter schools at the time required and provided under the provisions of this chapter. Such data and information so filed shall show in detail the amount of funds to which each school district and charter school is entitled from such common school fund and adequate education program fund. Such data and information so filed may be revised from time to time as necessitated by law. At the time provided by law, the State Treasurer and the State Fiscal Officer shall distribute to the several school districts and charter schools the amounts to which they are entitled from the common school fund and the adequate education program fund as provided by this chapter. Such distribution shall be made by electronic funds transfer to the depositories of the several school districts and charter schools designated in writing to the State Treasurer based upon the data and information supplied by the State Department of Education for such distribution. In such instances, the State Treasurer shall submit a request for an electronic funds transfer to the State Fiscal Officer, which shall set forth the purpose, amount and payees, and shall be in such form as may be approved by the State Fiscal Officer so as to provide the necessary information as would be required for a requisition and issuance of a warrant. A copy of the record of said electronic funds transfers shall be transmitted by the school district and charter school depositories to the Treasurer, who shall file duplicates with the State Fiscal Officer. The Treasurer and State Fiscal Officer shall jointly promulgate regulations for the utilization of electronic funds transfers to school districts and charter schools.

SOURCES: Laws, 1997, ch. 612, § 16; Laws, 2013, ch. 497, § 89, eff from and after July 1, 2013.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Amendment Notes — The 2013 amendment inserted "and charter schools" following "school districts" and "and charter school" following "school district" throughout the section.

§ 37-151-103. Payment of funds.

(1) Funds due each school district and charter school under the terms of this chapter from the Adequate Education Program Fund shall be paid in the following manner: Two (2) business days prior to the last working day of each month there shall be paid to each school district and charter school, by electronic funds transfer, one-twelfth (1/12) of the funds to which the district or charter school is entitled from funds appropriated for the Adequate Education Program Fund. However, in December those payments shall be made on December 15th or the next business day after that date. All school districts shall process a single monthly payroll for licensed employees and may process a single monthly or a semimonthly payroll for nonlicensed employees, in the discretion of the local school board, with electronic settlement of payroll checks secured through direct deposit of net pay for all school district employees. In addition, the State Department of Education may pay school districts and charter schools from the common school fund and the Adequate Education Program Fund on a date earlier than provided for by this section if it is determined that it is in the best interest of school districts and charter schools to do so.

Provided, however, that if the cash balance in the State General Fund is not adequate on the due date to pay the amounts due to all school districts and charter schools in the state as determined by the State Superintendent of Education, the State Fiscal Officer shall not transfer said funds payable to any school district or districts or charter schools until money is available to pay the amount due to all districts and charter schools.

(2) Notwithstanding any provision of this chapter or any other law requiring the number of children in average daily attendance or the average daily attendance of transported children to be determined on the basis of the preceding year, the State Board of Education is hereby authorized and empowered to make proper adjustments in allotments in cases where major changes in the number of children in average daily attendance or the average daily attendance of transported children occurs from one year to another as a result of changes or alterations in the boundaries of school districts, the sending of children from one county or district to another upon a contract basis, the termination or discontinuance of a contract for the sending of children from one county or district to another, a change in or relocation of attendance centers, or for any other reason which would result in a major decrease or increase in the number of children in average daily attendance or the average daily attendance of transported children during the current school year as compared with the preceding year.

(3) In the event of an inordinately large number of absentees in any school district or charter school as a result of epidemic, natural disaster, or any concerted activity discouraging school attendance, then in such event school attendance for the purposes of determining average daily attendance under the adequate education program shall be based upon the average daily attendance for the preceding school year for such school district or charter school.

SOURCES: Laws, 1997, ch. 612, § 17; Laws, 2002, ch. 551, § 3; Laws, 2003, ch. 546, § 2; Laws, 2012, ch. 543, § 5; Laws, 2013, ch. 497, § 90; Laws, 2013, ch. 566, § 2; Laws, 2014, ch. 420, § 1, eff from and after passage (approved Mar. 24, 2014.)

Joint Legislative Committee Note — Section 90 of ch. 497, Laws of 2013, effective from and after July 1, 2013 (approved April 17, 2013), amended this section. Section 2 of ch. 566, Laws of 2013, effective from and after July 1, 2013 (approved April 25, 2013), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision, and Publication authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication ratified the integration of these amendments as consistent with the legislative intent at the August 1, 2013, meeting of the Committee.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

Amendment Notes — The 2012 amendment, in the first paragraph of (1), substituted "On the two (2) days prior to the last day of each month" for "On the twenty-fifth day of each month" in the first sentence, and inserted the third sentence.

The first 2013 amendment (ch. 497), inserted "and charter schools," or "and charter school" and "or charter school" or "or charter schools" following "district" or "districts" throughout.

The second 2013 amendment (ch. 566), rewrote the first sentence in (1), which formerly read: "Funds due each school district under the terms of this chapter from the Adequate Education Program Fund shall be paid in the following manner: On the two (2) days prior to the last day of each month, or the next business date after that date, there shall be paid to each school district by electronic funds transfer one-twelfth (1⁄12) of the funds to which the district is entitled from funds appropriated for the Adequate Education Program Fund."

The 2014 amendment inserted "for licensed employees and may process a single monthly or a semimonthly payroll for nonlicensed employees, in the discretion of the local school board" in the third sentence of the first paragraph of (1).

Comparable Laws from other States — Illinois: 45 ILCS 50/1 through 50/1.10, 50/2 through 50/4.

Indiana: Burns Ind. Code Ann. §§ 14-35-4-1 through 14-35-4-3.
Kentucky: KRS § 350.300.
Louisiana: La. R.S. 30:951 through 30:955.
Maryland: Md. Environment Code Ann. §§ 15-901, 15-902.
Missouri: §§ 444.400 through 444.420 R.S.Mo.
New York: NY CLS ECL § 23-2722.
North Carolina: N.C. Gen. Stat. §§ 74-37, 74-38.
North Dakota: N.D. Cent. Code, § 38-20-01.
Ohio: ORC Ann. 1514.30.
Oklahoma: 45 Okl. St. §§ 851 through 853.
Pennsylvania: 52 P.S. §§ 3251 through 3257.
South Carolina: S.C. Code Ann. §§ 48-21-10 through 48-21-30.
Tennessee: Tenn. Code Ann. §§ 59-10-101 through 59-10-104.
Texas: Tex. Nat. Res. Code §§ 132.001 through 132.0082.
Virginia: Va. Code Ann. § 45.1-271.
West Virginia: W.Va. Code §§ 22C-10-1 through 22C-10-3.

ADMINISTRATION AND ENFORCEMENT

SEC.
37-151-105. Regulations.
37-151-107. Violations; penalties.

§ 37-151-105. Regulations.

The State Board of Education shall have the authority to make such regulations not inconsistent with law which it deems necessary for the administration of this chapter. The State Board of Education, if it deems such practice necessary, may use reports of the first six (6) months of school for the purpose of determining average daily attendance and the number of pupils transported for that year.

SOURCES: Laws, 1997, ch. 612, § 18, eff from and after July 1, 2002.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

§ 37-151-107. Violations; penalties.

Any superintendent of education, member of the local school board of any school district, superintendent, principal, teacher, carrier, bus driver or member or employee of the State Department of Education or State Board of Education, or any other person, who shall willfully violate any of the provisions of this chapter, or who shall willfully make any false report, list or record, or who shall willfully make use of any false report, list or record, concerning the number of school children in average daily attendance or the number of children being transported or entitled to be transported in any county or school district, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for a period not to exceed sixty (60) days or by a fine of not less than One Hundred Dollars ($100.00), nor more than Three Hundred Dollars ($300.00), or by both such fine and imprisonment, in the discretion of the court. In addition, any such person shall be civilly liable for all amounts of public funds which are illegally, unlawfully or wrongfully expended or paid out by virtue of or pursuant to such false report, list or record, and upon conviction or adjudication of civil liability hereunder, such person shall forfeit his license to teach for a period of three (3) years, if such person is the holder of such a license. Any suit to recover such funds illegally, unlawfully or wrongfully expended or paid out may be brought in the name of the State of Mississippi by the Attorney General or the proper district attorney or county attorney, and, in the event such suit be brought against a person who is under bond, the sureties upon such bond shall likewise be liable for such amount illegally, unlawfully or wrongfully expended or paid out.

SOURCES: Laws, 1997, ch. 612, § 19, eff from and after July 1, 2002.

Editor's Note — Laws of 1997, ch. 612, was vetoed by the Governor on April 10, 1997. The veto was overridden at the 1st 1997 Extraordinary Session of the Legislature on April 23, 1997.

CHAPTER 152

Commission on Restructuring the Mississippi Adequate Education Program (MAEP)

Sec.	
37-152-1.	Commission created; duty to study and report on various factors related to MAEP; Board of Education to contract with consulting firm with expertise in public school funding formulas to assist with study; report of findings to Legislature; periodic studies; commission membership; appointments; meetings; quorum requirements; compensation.
37-152-3.	Repealed.

§ 37-152-1. Commission created; duty to study and report on various factors related to MAEP; Board of Education to contract with consulting firm with expertise in public school funding formulas to assist with study; report of findings to Legislature; periodic studies; commission membership; appointments; meetings; quorum requirements; compensation.

(1) There is created a Commission on Restructuring the Mississippi Adequate Education Program (MAEP). The commission shall, at a minimum, study and report on the following factors related to MAEP:

(a) Efficiency;
(b) Local contributions to MAEP;
(c) Base student cost;
(d) Selection of school districts for funding calculations;
(e) The factors that contribute to high performing schools;
(f) Add-on programs;
(g) High growth districts;
(h) At-risk student funds; and
(i) Determination of average daily attendance.

(2) The State Board of Education shall contract with a consulting firm that has expertise in public school funding formulas to assist the commission with the study. The commission shall make a report of its findings and recommendations to the Legislature by November 1, 2005, including any recommended legislation. The commission shall continue in existence and shall conduct a periodic study to update its recommendations relative to MAEP and make a report by November 1 in the first year of every four-year term of office of statewide officials and legislators.

(3) The commission shall be composed of the following seventeen (17) members:

(a) The Chairmen of the House and Senate Education Committees;

(b) The Chairmen of the House and Senate Appropriation Committees;

(c) Three (3) representatives to be appointed by the Speaker of the House, at least one (1) of which shall be a member of the Joint Legislative Budget Committee;

(d) Three (3) Senators to be appointed by the Lieutenant Governor, at least one (1) of which shall be a member of the Joint Legislative Budget Committee;

(e) The State Superintendent of Education, or his designee;

(f) The Associate State Superintendent of Education for Accountability;

(g) The State Auditor, or his designee;

(h) A local school superintendent appointed by the Governor;

(i) A local school business administrator designated by the Mississippi School Boards Association;

(j) A member of the State Board of Education appointed by the Chairman of the board; and

(k) The Executive Director of the Legislative Budget Office.

(4) Appointments shall be made within thirty (30) days after the July 1, 2005. The commission shall hold its first meeting before August 1, 2005. The Chairman of the House Education Committee and the Chairman of the Senate Education Committee shall serve as co-chairmen of the commission.

(5) A majority of the members of the task force shall constitute a quorum. In the adoption of rules, resolutions and reports, an affirmative vote of a majority of the task force shall be required. All members shall be notified in writing of all meetings, such notices to be mailed at least five (5) days prior to the date on which a meeting is to be held.

(6) Members of the commission may not be compensated for the performance of their duties. Any incidental costs associated with conducting the study shall be paid by the State Department of Education.

(7) The commission is authorized to accept money from any source, public or private, to be expended in implementing its duties under this section.

(8) To effectuate the purposes of this section, any department, division, board, bureau, commission or agency of the state or of any political subdivision thereof shall, at the request of the chairperson of the task force, provide to the commission such facilities, assistance and data as will enable the commission to properly carry out its duties.

SOURCES: Laws, 2005, ch. 531, § 1, eff from and after July 1, 2005.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Cross References — Mississippi Adequate Education Program, see § 37-151-1 et seq.

§ 37-152-3. Repealed.

Repealed by its own terms, effective July 1, 2012.

§ 37-152-3. [Laws, 2009, ch. 507, § 1, eff from and after July 1, 2009.]

Editor's Note — Former § 37-152-3 was entitled: Task force to study and report on failing schools and school districts, effectiveness measures for improvement of failing schools and school districts and enhancement of accountability and sanctions; task force composition and compensation; matters to be studied and reported on; staff; annual report of findings and recommendations.

CHAPTER 153

Workforce Training and Education Consolidation Act

Sec.
37-153-1. Short title [Repealed effective July 1, 2019].
37-153-3. Legislative intent [Repealed effective July 1, 2019].
37-153-5. Definitions [Repealed effective July 1, 2019].
37-153-7. Mississippi Workforce Development Council created; duties; membership; staff and administration [Repealed effective July 1, 2019].
37-153-9. District work force development councils created; duties; membership [Repealed effective July 1, 2019].
37-153-11. One-Stop Career Centers; staff and organization; duties [Repealed effective July 1, 2019].
37-153-13. Mississippi Community College Board to be primary support agency for the career centers and district councils; powers [Repealed effective July 1, 2019].

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the title of this chapter. The word "and" was deleted following "Workforce." The Joint Committee ratified the correction at its December 3, 1996 meeting.

§ 37-153-1. Short title [Repealed effective July 1, 2019].

This chapter shall be known and may be cited as the "Mississippi Comprehensive Workforce Training and Education Consolidation Act of 2004."

SOURCES: Laws, 1994, ch. 585, § 1; Laws, 1996, ch. 521, § 7; Laws, 2004, ch. 572, § 1; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 1; reenacted without change, Laws, 2010, ch. 559, § 1; reenacted without change, Laws, 2011, ch. 471, § 1; reenacted without change, Laws, 2012, ch. 515, § 1, eff from and after July 1, 2012.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section. The word "act" was changed to "chapter". The Joint Committee ratified the correction at its December 3, 1996 meeting.

Editor's Note — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

Amendment Notes — The 2012 amendment reenacted the section without change.

§ 37-153-3. Legislative intent [Repealed effective July 1, 2019].

It is the intent of the Legislature by the passage of Chapter 572, Laws of 2004, to establish one (1) comprehensive workforce development system in the

State of Mississippi that is focused on achieving results, using resources efficiently and ensuring that workers and employers can easily access needed services. This system shall reflect a consolidation of the Mississippi Workforce Development Advisory Council and the Mississippi State Workforce Investment Act Board. The purpose of Chapter 572, Laws of 2004, is to provide workforce activities, through a statewide system that maximizes cooperation among state agencies, that increase the employment, retention and earnings of participants, and increase occupational skill attainment by participants and as a result, improve the quality of the workforce, reduce welfare dependency and enhance the productivity and competitiveness of the State of Mississippi.

SOURCES: Laws, 1994, ch. 585, § 2; Laws, 2004, ch. 572, § 2; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 2; reenacted without change, Laws, 2010, ch. 559, § 2; reenacted and amended, Laws, 2011, ch. 471, § 2; reenacted without change, Laws, 2012, ch. 515, § 2, eff from and after July 1, 2012.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section. The word "act" was changed to "chapter". The Joint Committee ratified the correction at its December 3, 1996 meeting.

Editor's Note — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

Amendment Notes — The 2012 amendment reenacted the section without change.

§ 37-153-5. Definitions [Repealed effective July 1, 2019].

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed in this section unless the context clearly indicates otherwise:

(a) "State board" means the Mississippi State Workforce Investment Board;

(b) "District councils" means the Local Workforce Development Councils;

(c) "Local workforce investment board" means the board that oversees the workforce development activities of local workforce areas under the federal Workforce Investment Act.

SOURCES: Laws, 1994, ch. 585, § 3; Laws, 1996, ch. 521, § 8; Laws, 2004, ch. 572, § 3; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 3; reenacted without change, Laws, 2010, ch. 559, § 3; reenacted without change, Laws, 2011, ch. 471, § 3; reenacted without change, Laws, 2012, ch. 515, § 3, eff from and after July 1, 2012.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section. The word "act" was changed to "chapter". The Joint Committee ratified the correction at its December 3, 1996 meeting.

Editor's Note — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

Amendment Notes — The 2012 amendment reenacted the section without change.

§ 37-153-7. Mississippi Workforce Development Council created; duties; membership; staff and administration [Repealed effective July 1, 2019].

(1) There is created the Mississippi State Workforce Investment Board. The Mississippi State Workforce Investment Board shall be composed of thirty-nine (39) voting members, of which a majority shall be representatives of business and industry in accordance with the federal Workforce Investment Act.

(a) The Governor shall appoint the following members of the board to serve a term of four (4) years:

(i) The Executive Director of the Mississippi Association of Supervisors, or his/her designee;

(ii) The Executive Director of the Mississippi Municipal League;

(iii) One (1) elected mayor;

(iv) One (1) elected county supervisor;

(v) Two (2) representatives of labor organizations, who have been nominated by state labor federations;

(vi) Two (2) representatives of individuals and organizations that have experience with respect to youth activities;

(vii) One (1) representative of the Mississippi Association of Planning and Development Districts;

(viii) One (1) representative from each of the four (4) workforce areas in the state, who has been nominated by the community colleges in each respective area, with the consent of the elected county supervisors within the respective workforce area; and

(ix) Nineteen (19) representatives of business owners nominated by business and industry organizations, which may include representatives of the various planning and development districts in Mississippi.

(b) The following state officials shall be members of the board:

(i) The Executive Director of the Mississippi Department of Employment Security;

(ii) The Executive Director of the Department of Rehabilitation Services;

(iii) The State Superintendent of Public Education;

(iv) The Executive Director of the Mississippi Development Authority;

(v) The Executive Director of the Mississippi Department of Human Services;

(vi) The Executive Director of the Mississippi Community College Board.

(c) The Governor, or his designee, shall serve as a member.

(d) Four (4) legislators, who shall serve in a nonvoting capacity, two (2) of whom shall be appointed by the Lieutenant Governor from the membership of the Mississippi Senate, and two (2) of whom shall be appointed by the Speaker of the House from the membership of the Mississippi House of Representatives.

(e) The membership of the board shall reflect the diversity of the State of Mississippi.

(f) The Governor shall designate the Chairman of the Mississippi State Workforce Investment Board from among the voting members of the board, and a quorum of the board shall consist of a majority of the voting members of the board.

(g) The voting members of the board who are not state employees shall be entitled to reimbursement of their reasonable expenses incurred in carrying out their duties under this chapter, from any funds available for that purpose.

(h) The Mississippi Department of Employment Security shall be responsible for providing necessary administrative, clerical and budget support for the State Workforce Investment Board.

(2) The Mississippi Department of Employment Security shall establish limits on administrative costs for each portion of Mississippi's workforce development system consistent with the federal Workforce Investment Act or any future federal workforce legislation.

(3) The Mississippi State Workforce Investment Board shall have the following duties:

(a) Develop and submit to the Governor a strategic plan for an integrated state workforce development system that aligns resources and structures the system to more effectively and efficiently meet the demands of Mississippi's employers and job seekers. This plan will comply with the federal Workforce Investment Act of 1998, as amended;

(b) Assist the Governor in the development and continuous improvement of the statewide workforce investment system that shall include:

(i) Development of linkages in order to assure coordination and nonduplication among programs and activities; and

(ii) Review local workforce development plans that reflect the use of funds from the federal Workforce Investment Act, Wagner-Peyser Act and the Mississippi Comprehensive Workforce Training and Education Consolidation Act;

(c) Recommend the designation of local workforce investment areas as required in Section 116 of the federal Workforce Investment Act of 1998. There shall be four (4) workforce investment areas that are generally aligned with the planning and development district structure in Mississippi. Planning and development districts will serve as the fiscal agents to manage Workforce Investment Act funds, oversee and support the local workforce investment boards aligned with the area and the local programs and activities as delivered by the one-stop employment and training system. The planning and development districts will perform this function through the provisions of the county cooperative service districts created under Sections 19-3-101 through 19-3-115; however, planning and development districts currently performing this function under the Interlocal Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may continue to do so;

(d) Assist the Governor in the development of an allocation formula for the distribution of funds for adult employment and training activities and youth activities to local workforce investment areas;

(e) Recommend comprehensive, results-oriented measures that shall be applied to all Mississippi's workforce development system programs;

(f) Assist the Governor in the establishment and management of a one-stop employment and training system conforming to the requirements of the federal Workforce Investment Act of 1998, as amended, recommending policy for implementing the Governor's approved plan for employment and training activities and services within the state. In developing this one-stop career operating system, the Mississippi State Workforce Investment Board, in conjunction with local workforce investment boards, shall:

(i) Design broad guidelines for the delivery of workforce development programs;

(ii) Identify all existing delivery agencies and other resources;

(iii) Define appropriate roles of the various agencies to include an analysis of service providers' strengths and weaknesses;

(iv) Determine the best way to utilize the various agencies to deliver services to recipients; and

(v) Develop a financial plan to support the delivery system that shall, at a minimum, include an accountability system;

(g) Assist the Governor in reducing duplication of services by urging the local workforce investment boards to designate the local community/junior college as the operator of the WIN Job Center. Incentive grants of Two Hundred Thousand Dollars ($200,000.00) from federal Workforce Investment Act funds may be awarded to the local workforce boards where the community/junior college district is designated as the WIN Job Center. These grants must be provided to the community and junior colleges for the extraordinary costs of coordinating with the Workforce Investment Act, advanced technology centers and advanced skills centers. In no case shall these funds be used to supplant state resources being used for operation of workforce development programs;

(h) To provide authority, in accordance with any executive order of the Governor, for developing the necessary collaboration among state agencies at the highest level for accomplishing the purposes of this chapter;

(i) To monitor the effectiveness of the workforce development centers and WIN job centers;

(j) To advise the Governor, public schools, community/junior colleges and institutions of higher learning on effective school-to-work transition policies and programs that link students moving from high school to higher education and students moving between community colleges and four-year institutions in pursuit of academic and technical skills training;

(k) To work with industry to identify barriers that inhibit the delivery of quality workforce education and the responsiveness of educational institutions to the needs of industry;

(*l*) To provide periodic assessments on effectiveness and results of the overall Mississippi comprehensive workforce development system and district councils; and

(m) To assist the Governor in carrying out any other responsibility required by the federal Workforce Investment Act of 1998, as amended.

(4) The Mississippi State Workforce Investment Board shall coordinate all training programs and funds in the State of Mississippi.

Each state agency director responsible for workforce training activities shall advise the Mississippi State Workforce Investment Board of appropriate federal and state requirements. Each such state agency director shall remain responsible for the actions of his agency; however, each state agency and director shall work cooperatively, and shall be individually and collectively responsible to the Governor for the successful implementation of the statewide workforce investment system. The Governor, as the Chief Executive Officer of the state, shall have complete authority to enforce cooperation among all entities within the state that utilize federal or state funding for the conduct of workforce development activities.

SOURCES: Laws, 1994, ch. 585, § 4; Laws, 1996, ch. 521, § 9; Laws, 2002, ch. 329, § 4; Laws, 2004, ch. 572, § 4; Laws, 2005, ch. 391, § 2; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 4; reenacted without change, Laws, 2010, ch. 559, § 4; reenacted without change, Laws, 2011, ch. 471, § 4; reenacted without change, Laws, 2012, ch. 515, § 4; Laws, 2014, ch. 397, § 48, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section. The word "act" was changed to "chapter". The Joint Committee ratified the correction at its December 3, 1996 meeting.

Editor's Note — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

Amendment Notes — The 2012 amendment reenacted and amended the section by making minor stylistic changes.

The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in (1)(b)(vi).

Federal Aspects — Wagner-Peyser Act generally, see 29 USCS §§ 49 et seq.

Workforce Investment Act of 1998 generally, see 29 USCS §§ 2801 et seq.

Section 116 of the Workforce Investment Act of 1998, see 29 USCS 2831.

§ 37-153-9. District work force development councils created; duties; membership [Repealed effective July 1, 2019].

(1) In accordance with the federal Workforce Investment Act of 1998, there shall be established, for each of the four (4) state workforce areas prescribed in Section 37-153-3 (2)(c), a local workforce investment board to set

policy for the portion of the state workforce investment system within the local area and carry out the provisions of the Workforce Investment Act.

(2) Each community college district shall have an affiliated District Workforce Development Council. The district council shall be composed of a diverse group of fifteen (15) persons appointed by the board of trustees of the affiliated public community or junior college. The members of each district council shall be selected from persons recommended by the chambers of commerce, employee groups, industrial foundations, community organizations and local governments located in the community college district of the affiliated community college with one (1) appointee being involved in basic literacy training. However, at least eight (8) members of each district council shall be chief executive officers, plant managers that are representatives of employers in that district or service sector executives. The District Workforce Development Council affiliated with each respective community or junior college shall advise the president of the community or junior college on the operation of its workforce development center/one-stop center.

The Workforce Development Council shall have the following advisory duties:

(a) To develop an integrated and coordinated district workforce investment strategic plan that:

(i) Identifies workforce investment needs through job and employee assessments of local business and industry;

(ii) Sets short-term and long-term goals for industry-specific training and upgrading and for general development of the workforce; and

(iii) Provides for coordination of all training programs, including ABE/High School Equivalency Diploma, Skills Enhancement and Industrial Services, and shall work collaboratively with the State Literacy Resource Center;

(b) To coordinate and integrate delivery of training as provided by the workforce development plan;

(c) To assist business and industry management in the transition to a high-powered, quality organization;

(d) To encourage continuous improvement through evaluation and assessment; and

(e) To oversee development of an extensive marketing plan to the employer community.

SOURCES: Laws, 1994, ch. 585, § 5; Laws, 1996, ch. 521, § 10; Laws, 2004, ch. 572, § 5; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 5; reenacted without change, Laws, 2010, ch. 559, § 5; reenacted without change, Laws, 2011, ch. 471, § 5; reenacted without change, Laws, 2012, ch. 515, § 5; Laws, 2014, ch. 398, § 9, eff from and after July 1, 2014.

Editor's Note — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

Amendment Notes — The 2012 amendment reenacted the section without change.

The 2014 amendment substituted "High School Equivalency Diploma" for "GED" in (2)(a)(iii).

§ 37-153-11. One-Stop Career Centers; staff and organization; duties [Repealed effective July 1, 2019].

(1) There are created workforce development centers to provide assessment, training and placement services to individuals needing retraining, training and upgrading for small business and local industry. Each workforce development center shall be affiliated with a separate public community or junior college district.

(2) Each workforce development center shall be staffed and organized locally by the affiliated community college. The workforce development center shall serve as staff to the affiliated district council.

(3) Each workforce development center, working in concert with its affiliated district council, shall offer and arrange services to accomplish the purposes of this chapter, including, but not limited to, the following:

(a) For individuals needing training and retraining:

(i) Recruiting, assessing, counseling and referring to training or jobs;

(ii) Preemployment training for those with no experience in the private enterprise system;

(iii) Basic literacy skills training and high school equivalency education;

(iv) Vocational and technical training, full-time or part-time; and

(v) Short-term skills training for educationally and economically disadvantaged adults in cooperation with federally established employment and training programs;

(b) For specific small businesses, industries or firms within the district:

(i) Job analysis, testing and curriculum development;

(ii) Development of specific long-range training plans;

(iii) Industry or firm-related preemployment training;

(iv) Workplace basic skills and literacy training;

(v) Customized skills training;

(vi) Assistance in developing the capacity for total quality management training;

(vii) Technology transfer information and referral services to business of local applications of new research in cooperation with the University Research Center, the state's universities and other laboratories; and

(viii) Development of business plans;

(c) For public schools within the district technical assistance to secondary schools in curriculum coordination, development of tech prep programs, instructional development and resource coordination; and

(d) For economic development, a local forum and resource center for all local industrial development groups to meet and promote regional economic development.

(4) Each workforce development center shall compile and make accessible to the Mississippi Workforce Investment Board necessary information for use

in evaluating outcomes of its efforts and in improving the quality of programs at each community college, and shall include information on literacy initiatives. Each workforce development center shall, through an interagency management information system, maintain records on new small businesses, placement, length of time on the job after placement and wage rates of those placed in a form containing such information as established by the state council.

(5) The Mississippi Community College Board is authorized to designate one or more workforce development centers at the request of affiliated community or junior colleges to provide skills training to individuals to enhance their ability to be employed in the motion picture industry in this state.

SOURCES: Laws, 1994, ch. 585, § 6; Laws, 1996, ch. 521, § 11; Laws, 2004, ch. 572, § 6; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 6; reenacted without change, Laws, 2010, ch. 559, § 6; reenacted without change, Laws, 2011, ch. 471, § 6; reenacted without change, Laws, 2012, ch. 515, § 6; Laws, 2012, ch. 568, § 1, eff from and after July 1, 2012.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section. The word "act" was changed to "chapter". The Joint Committee ratified the correction at its December 3, 1996 meeting.

Section 6 of ch. 515, Laws of 2012, effective from and after July 1, 2012 (approved May 1, 2012), amended this section. Section 1 of ch. 568, Laws of 2012, effective July 1, 2012 (approved May 23, 2012), amended this section. As set out above, this section reflects the language of Section 1 of ch. 568, Laws of 2012, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date supersedes all other amendments to the same section approved on an earlier date.

Editor's Note — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

Amendment Notes — The first 2012 amendment (ch. 515), reenacted the section without change.

The second 2012 amendment (ch. 568), added (5).

§ 37-153-13. Mississippi Community College Board to be primary support agency for the career centers and district councils; powers [Repealed effective July 1, 2019].

The Mississippi Community College Board is designated as the primary support agency to the workforce development centers. The Mississippi Community College Board may exercise the following powers:

(a) To provide the workforce development centers the assistance necessary to accomplish the purposes of this chapter;

(b) To provide the workforce development centers consistent standards and benchmarks to guide development of the local workforce development system and to provide a means by which the outcomes of local services can be measured;

(c) To develop the staff capacity to provide, broker or contract for the provision of technical assistance to the workforce development centers, including, but not limited to:

(i) Training local staff in methods of recruiting, assessment and career counseling;

(ii) Establishing rigorous and comprehensive local preemployment training programs;

(iii) Developing local institutional capacity to deliver total quality management training;

(iv) Developing local institutional capacity to transfer new technologists into the marketplace;

(v) Expanding the Skills Enhancement Program and improving the quality of adult literacy programs; and

(vi) Developing data for strategic planning;

(d) To collaborate with the Mississippi Development Authority and other economic development organizations to increase the community college systems' economic development potential;

(e) To administer presented and approved certification programs by the community colleges for tax credits and partnership funding for corporate training;

(f) To create and maintain an evaluation team that examines which kinds of curricula and programs and what forms of quality control of training are most productive so that the knowledge developed at one (1) institution of education can be transferred to others;

(g) To develop internal capacity to provide services and to contract for services from universities and other providers directly to local institutions;

(h) To develop and administer an incentive certification program;

(i) To develop and hire staff and purchase equipment necessary to accomplish the goals set forth in this section; and

(j) To collaborate, partner and contract for services with community-based organizations and disadvantaged businesses in the delivery of workforce training and career information especially to youth, as defined by the federal Workforce Investment Act, and to those adults who are in low income jobs or whose individual skill levels are so low as to be unable initially to be aided by a workforce development center. Community-based organizations and disadvantaged businesses must meet performance-based certification requirements set by the Mississippi Community College Board.

SOURCES: Laws, 1994, ch. 585, § 7; Laws, 1996, ch. 521, § 12; Laws, 2004, ch. 572, § 7; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 7; reenacted without change, Laws, 2010, ch. 559, § 7; reenacted without change, Laws, 2011, ch. 471, § 7; Laws, 2014, ch. 397, § 49, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section. The word “act” was changed to “chapter”. The Joint Committee ratified the correction at its December 3, 1996 meeting.

Editor’s Note — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

“SECTION 60. This act shall stand repealed on July 1, 2019.”

Amendment Notes — The 2012 amendment reenacted the section without change.

The 2014 amendment substituted “Mississippi Community College Board” for “State Board for Community and Junior Colleges” twice in the introductory paragraph and once in (j).

Cross References — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

CHAPTER 154

State Longitudinal Data System

Sec.
37-154-1. State Longitudinal Data System (SLDS); establishment.
37-154-3. Governance.

§ 37-154-1. State Longitudinal Data System (SLDS); establishment.

(1) To improve quality of life, education and employment opportunities for all citizens, the appropriate agencies of the State of Mississippi listed in subsection (2) of this section shall develop and maintain a State Longitudinal Data System (SLDS). The system will allow stakeholders and policymakers access data on state residents from birth to the workforce to drive accountability and investment decisions. The system will include data from multiple state agencies and entities. The system will provide decision makers a tool to develop policies to support objectives, including, but not limited to:

(a) Enabling Mississippians to secure and retain employment and receive better pay after completing training or postsecondary degrees;

(b) Enabling Mississippi to meet the education and job skill demands of business and industry;

(c) Developing an early warning system, which allows the state to intervene early, improving the graduation rates in high school and college;

(d) Identifying teachers, teaching methods and programs that lead to positive student outcomes; and

(e) Encouraging the sharing of electronic data across educational and other entities.

(2) Individual state agencies and state entities will send data from their internal system to the Statewide Longitudinal Data System. These initial agencies and entities shall provide data to the SLDS under the provisions developed by the SLDS Governing Board established in Section 37-154-3:

(a) Mississippi Department of Education (MDE);
(b) Mississippi Community College Board;
(c) Board of Trustees of State Institutions of Higher Learning (IHL);
(d) State Workforce Investment Board (SWIB);
(e) Mississippi Department of Employment Security (MDES);
(f) Mississippi Department of Human Services (MDHS); and
(g) State Early Childhood Advisory Council (SECAC).

Any agencies or entities added to SLDS shall provide a representative to the SLDS Governing Board and be governed in the same manner as the initial agencies and entities.

(3) The system will be based on an existing system currently housed, developed and maintained by the National Strategic Planning and Analysis Research Center (nSPARC) at Mississippi State University. The initial agencies participating in the SLDS Governing Board and nSPARC have worked

collaboratively to secure funding through the United States Department of Education to expand and enhance the capacity of the state's existing technology infrastructure for the purposes of developing the SLDS. The State Data Center, operated by the Mississippi Department of Information Technology Services (ITS), will provide application hosting services for the SLDS until such time the SLDS Governing Board approves that another entity should perform these services.

SOURCES: Laws, 2011, ch. 407, § 1; Laws, 2014, ch. 397, § 50, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges (SBCJC)" in (2)(b).

§ 37-154-3. Governance.

(1) The SLDS will be governed by a SLDS Governing Board (the board), which shall be composed of a representative from each agency or entity providing data to the system. Each agency or entity will appoint their representative to sit on the Governing Board. For the two (2) years following July 1, 2013, the State Workforce Investment Board Chair will also serve as Chair of the SLDS Governing Board. In subsequent years, the SLDS Governing Board will elect a chair from among its members. The Chair of the SLDS Governing Board will serve a two-year term.

(2) The SLDS Governing Board shall develop and promulgate all rules and regulations governing the activities of the SLDS in accordance with applicable state and federal laws. The board is authorized to contract with a third party to manage and maintain the system and to insure the policies and procedures developed by the board are enforced.

(3) The SLDS Governing Board shall be responsible for, but not limited to, the following objectives:

(a) Identifying critical research and policy questions that need to be addressed by education (P-20) and workforce programs;

(b) Identifying reports and other information that should be available to education and workforce entities and other public stakeholders;

(c) Developing a funding mechanism for sustaining the system after it is developed;

(d) Defining and maintaining standards for privacy, confidentiality and security of data; and

(e) Performing other advisory functions that are necessary for the successful continuation and management of the longitudinal data system.

(4) Nothing in this chapter shall prevent an individual agency or entity from maintaining control of their agency's individual data.

(5) All data provided to the SLDS shall be provided in accordance with all local, state and federal laws governing the protection and sharing of such data.

SOURCES: Laws, 2011, ch. 407, § 2, eff from and after July 1, 2013.

CHAPTER 155

College Savings Plans of Mississippi

Article 1.	Mississippi Prepaid Affordable College Tuition (MPACT) Program	37-155-1
Article 3.	Mississippi Affordable College Savings (MACS) Program	37-155-101

ARTICLE 1.

MISSISSIPPI PREPAID AFFORDABLE COLLEGE TUITION (MPACT) PROGRAM.

SEC.
37-155-1. Short title.
37-155-3. Declaration of policy.
37-155-5. Definitions.
37-155-7. Board of directors.
37-155-9. Powers of the board of directors.
37-155-11. Types of plans.
37-155-13. Dormitory residence plan.
37-155-15. Mississippi Prepaid Affordable College Tuition Program Trust Fund.
37-155-17. Prepaid tuition contracts; tax exclusions and deductions.
37-155-19. Duties of the board.
37-155-21. Statement regarding status of prepaid tuition contract.
37-155-23. No promise or guarantee of admission.
37-155-25. Full faith and credit.
37-155-27. Severability.

§ 37-155-1. Short title.

This article shall be known and may be cited as the "Mississippi Prepaid Affordable College Tuition Program."

SOURCES: Laws, 1996, ch. 427, § 1, eff from and after July 1, 1996.

Editor's Note — Laws of 2000, ch. 473, enacted a new Article 3 of Chapter 155. The previously existing provisions of Chapter 155 became Article 1 of Chapter 155. Therefore, the reference in this section to "This chapter" has been changed to "This article" to conform with the change.

ATTORNEY GENERAL OPINIONS

The MPACT Program is an agency of the State of Mississippi. See Section 37-155-1 et seq. Bennett, December 20, 1996, A.G. Op. #96-0885.

§ 37-155-3. Declaration of policy.

The Legislature hereby finds and declares as follows:

(a) Tuition and required fees at institutions of higher education are difficult for many to afford and difficult to predict. As a result, the ability of individuals and families to plan for future educational expenses has been adversely affected.

(b) It is in the best interest of the citizens of this state to foster higher education in order to provide well-educated citizens.

(c) It is in the best interest of the citizens of this state to encourage state residents to enroll in institutions of higher education.

(d) Providing a mechanism to help assure the higher education of the citizens of this state is necessary and desirable for the public health, safety and welfare.

(e) The purposes of this article are to:

(i) Provide wide and affordable access to the public institutions of higher education for the residents of this state.

(ii) Encourage attendance at institutions of higher education and help individuals plan for educational expenses.

(iii) Provide a program for the advance purchase of tuition and required fees as both a means and an incentive for the citizens of this state to provide for future higher education expenses.

(iv) Provide a program through which many of the costs associated with postsecondary attendance may be paid in advance and fixed at a guaranteed level for the duration of the undergraduate enrollment.

(v) Provide for the creation of a trust fund, as an agency and instrumentality of the State of Mississippi, to assist qualified students in financing a portion of the cost of attending institutions of higher education in the State of Mississippi.

(vi) Encourage timely financial planning for higher education by the creation of prepaid tuition contracts.

SOURCES: Laws, 1996, ch. 427, § 2, eff from and after July 1, 1996.

Editor's Note — Laws of 2000, ch. 473, enacted a new Article 3 of Chapter 155. The previously existing provisions of Chapter 155 became Article 1 of Chapter 155. Therefore, the reference in this section to "this chapter" has been changed to "this article" to conform with the change.

§ 37-155-5. Definitions.

As used in this article, the following terms have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

(a) **Prepaid Tuition Contract.** — A contract entered into between the Board of Directors of the College Savings Plans of Mississippi Trust Funds and a purchaser pursuant to this article.

(b) **Trust fund.** — There is created a special fund in the State of Mississippi Treasury Department to be designated as the "Mississippi Prepaid Affordable College Tuition Trust Fund" (hereinafter referred to as the trust fund or fund) and to be administered by the State of Mississippi Treasury Department. The fund shall consist of state appropriations, monies acquired from other governmental or private sources, and money remitted in accordance with prepaid tuition contracts. In the event that dividends, interest and gains exceed the amount necessary for program administration and disbursements, the board may designate a percentage of the fund to serve as a contingency fund.

(c) **Purchaser.** — A person, corporation, trust, charitable organization or other such entity that makes or is obligated to make advance payments in accordance with a prepaid tuition contract entered into pursuant to this article. However, no purchaser may request or accept any form of compensation, fee, commission, service charge or any other form of payment or remuneration for entering into a contract for the benefit of a nonresident beneficiary.

(d) **Beneficiary.** — (i) The beneficiary of a prepaid tuition contract must be eighteen (18) years of age or younger at the time the purchaser enters into the contract and must be: (A) a resident of this state at the time the purchaser enters into the contract; or (B) a nonresident if the purchaser is a resident of this state at the time that the contract is entered into.

(ii) The board may require a reasonable period of residence in this state for a beneficiary or the purchaser.

(iii) A beneficiary is considered a resident for purposes of tuition regardless of the beneficiary's residence on the date of enrollment. However, for contracts entered into after July 1, 2003, this provision only applies to nonresident beneficiaries if (A) the original purchaser was the parent, grandparent or legal guardian of the beneficiary; or (B) the beneficiary was a resident of Mississippi at the time the contract was purchased.

(e) **Institution of higher education.** — Any public institution of higher learning or public community or junior college located in Mississippi.

(f) **Tuition.** — The quarter, semester or term charges and all required fees imposed by an institution of higher education as a condition of enrollment by all students.

(g) **Board or board of directors.** — The Board of Directors of the College Savings Plans of Mississippi Trust Funds as provided in Section 37-155-7.

(h) **Legislature.** — The Legislature of Mississippi.

SOURCES: Laws, 1996, ch. 427, § 3; Laws, 1999, ch. 378, § 1; Laws, 2000, ch. 473, § 14; Laws, 2003, ch. 311, § 1, eff from and after July 1, 2003.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the words "this chapter" to be "this article" throughout the section, as amended by Laws, 2000, ch. 473, § 14. The Joint Committee ratified the correction at its June 29, 2000 meeting.

ATTORNEY GENERAL OPINIONS

Notwithstanding Section 37-103-1 et seq., an MPACT beneficiary shall be considered a resident for the purposes of tuition regardless of the beneficiary's residence on the date of enrollment, as set out in Section 37-155-5(d)(iii). Patterson, October 11, 1996, A.G. Op. #96-0679.

§ 37-155-7. Board of directors.

(1) The board of directors shall consist of thirteen (13) members as follows:

(a) Nine (9) voting members as follows: the State Treasurer; the Commissioner of Higher Education, or his designee; the Executive Director of the Community and Junior College Board, or his designee; the Department of Finance and Administration Executive Director, or his designee; and one (1) member from each congressional district to be appointed by the Governor with the advice and consent of the Senate. One (1) member shall be appointed for an initial term of one (1) year; one (1) member shall be appointed for an initial term of two (2) years; one (1) member for an initial term of three (3) years; one (1) member for an initial term of four (4) years; and one (1) member for an initial term of five (5) years. On the expiration of any of the terms of office, the Governor shall appoint successors by and with the advice and consent of the Senate for terms of five (5) years in each case. Ex officio members of the board may be represented at official meetings by their deputy, or other designee, and such designees shall have full voting privileges and shall be included in the determination of a quorum for conducting board business.

(b) Two (2) nonvoting, advisory members of the board shall be appointed by each of the following officers: the Lieutenant Governor and the Speaker of the House of Representatives.

(2) Successors to the appointed members shall serve for the length of the term for each appointing official and shall be eligible for reappointment, and shall serve until a successor is appointed and qualified. Any person appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the unexpired term.

(3) Each member appointed shall possess knowledge, skill and experience in business or financial matters commensurate with the duties and responsibilities of the trust fund.

(4) Members of the board of directors shall serve without compensation, but shall be reimbursed for each day's official duties of the board at the same per diem as established by Section 25-3-69 and actual travel and lodging expenses as established by Section 25-3-41.

(5) The board of directors shall annually elect one (1) member to serve as chairman of the board and one (1) member to serve as vice chairman. The vice chairman shall act as chairman in the absence of or upon the disability of the chairman or in the event of a vacancy of the office of chairman.

(6) A majority of the currently serving members of the board shall constitute a quorum for the purposes of conducting business and exercising its official powers and duties. Any action taken by the board shall be upon the vote of a majority of the members present.

SOURCES: Laws, 1996, ch. 427, § 4; Laws, 1999, ch. 378, § 2; Laws, 2003, ch. 311, § 2, eff from and after July 1, 2003.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in this section. The words "Board of Directors. — " preceding the subsection (1) designation were deleted. The Joint Committee ratified the correction at its June 29, 2000 meeting.

Cross References — Definition of "board," see § 37-155-5.

ATTORNEY GENERAL OPINIONS

Whether elected or appointed, a full-time state official or employee may not receive per diem compensation for serving as an ex officio member of any state board, commission or committee, unless they have accumulated sufficient personal leave and use such leave while attending meetings where a per diem may be claimed. Bennett, July 3, 1997, A.G. Op. #97-0393.

Appointments to this board should be reviewed under the last five-district plan which was in effect. Canon, Jan. 16, 2003, A.G. Op. #03-0016.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 9 et seq.

§ 37-155-9. Powers of the board of directors.

In addition to the powers granted by any other provision of this article, the board of directors shall have the powers necessary or convenient to carry out the purposes and provisions of this article, the purposes and objectives of the trust fund and the powers delegated by any other law of the state or any executive order thereof, including, but not limited to, the following express powers:

(a) To adopt and amend bylaws;

(b) To adopt such rules and regulations as are necessary to implement the provisions of this article;

(c) To invest any funds of the trust fund in any instrument, obligation, security or property that constitutes legal investments for public funds in the state and to name and use depositories for its investments and holdings;

(d) To execute contracts and other necessary instruments;

(e) To impose reasonable requirements for residency for beneficiaries at the time of purchase of the contract and to establish rules to govern purchase of contracts for beneficiaries who are nonresidents at the time the purchaser enters into the prepaid tuition contract;

(f) To impose reasonable limits on the number of contract participants in the trust fund at any given period of time;

(g) To contract for necessary goods and services, to employ necessary personnel, and to engage the services of consultants for administrative and technical assistance in carrying out the responsibilities of the trust fund;

(h) To solicit and accept gifts, including bequeathments or other testamentary gifts made by will, trust or other disposition, grants, loans and other aids from any personal source or to participate in any other way in any federal, state or local governmental programs in carrying out the purposes of this article. Any gifts made to the board under this subsection shall be deductible from taxable income of the state in the tax year;

(i) To define the terms and conditions under which payments may be withdrawn or refunded from the trust fund, including, but not limited to, the amount paid in and an additional amount in the nature of interest at a rate that corresponds, at a minimum, to the prevailing interest rates for savings accounts provided by banks and savings and loan associations and impose reasonable charges for such withdrawal or refund;

(j) To ensure applicability to private and out-of-state tuitions:

(i) Under the program, a state purchaser may enter into a prepaid tuition contract with the board under which the purchaser agrees to attend a public institution of higher education in Mississippi;

(ii) If the beneficiary of a plan described by Section 37-155-11 enrolls in any in-state or out-of-state regionally accredited private four- or two-year college or an out-of-state regionally accredited, state-supported, nonprofit four- or two-year college or university, or any in-state or out-of-state regionally accredited graduate institution, the board shall pay to the institution an amount up to, but not greater than, the undergraduate tuition and required fees that the board would have paid had the beneficiary enrolled in an institution of higher education covered by the plan selected in the prepaid tuition contract. The beneficiary is responsible for paying a private undergraduate or graduate institution or an out-of-state public undergraduate or graduate institution the amount by which the tuition and required fees of the institution exceed the tuition and required fees paid by the board;

(k) To impose reasonable time limits on the use of the tuition benefits provided by the program;

(*l*) To provide for the receipt of contributions to the trust fund in lump sums or installment payments;

(m) To adopt an official seal and rules;

(n) To sue and be sued;

(o) To establish agreements or other transactions with federal, state and local agencies, including state universities and community colleges;

(p) To appear in its own behalf before boards, commissions or other governmental agencies;

(q) To segregate contributions and payments to the fund into various accounts and funds;

(r) To require and collect administrative fees and charges in connection with any transaction and impose reasonable penalties, including default, for delinquent payments or for entering into an advance payment contract on a fraudulent basis;

(s) To procure insurance against any loss in connection with the property, assets and activities of the fund or the board;

(t) To require that purchasers of advance payment contracts verify, under oath, any requests for contract conversions, substitutions, transfers, cancellations, refund requests or contract changes of any nature;

(u) To administer the fund in a manner that is sufficiently actuarially sound to meet the obligations of the program. The board shall annually evaluate or cause to be evaluated the actuarial soundness of the fund. If the board perceives a need for additional assets in order to preserve actuarial soundness, the board may adjust the terms of subsequent advance payment contracts to ensure such soundness;

(v) To establish a comprehensive investment plan for the purposes of this section. The comprehensive investment plan shall specify the investment policies to be utilized by the board in its administration of the fund. The board may authorize investments in:

(i) Bonds, notes, certificates and other valid general obligations of the State of Mississippi, or of any county, or of any city, or of any supervisors district of any county of the State of Mississippi, or of any school district bonds of the State of Mississippi; notes or certificates of indebtedness issued by the Veterans' Home Purchase Board of Mississippi, provided such notes or certificates of indebtedness are secured by the pledge of collateral equal to two hundred percent (200%) of the amount of the loan, which collateral is also guaranteed at least for fifty percent (50%) of the face value by the United States government, and provided that not more than five percent (5%) of the total investment holdings of the system shall be in Veterans' Home Purchase Board notes or certificates at any time; real estate mortgage loans one hundred percent (100%) insured by the Federal Housing Administration on single family homes located in the State of Mississippi, where monthly collections and all servicing matters are handled by Federal Housing Administration approved mortgagees authorized to make such loans in the State of Mississippi;

(ii) State of Mississippi highway bonds;

(iii) Funds may be deposited in federally insured institutions domiciled in the State of Mississippi or a custodial bank which appears on the State of Mississippi Treasury Department's approved depository list and/or safekeeper list;

(iv) Corporate bonds of investment grade as rated by Standard Poor's or by Moody's Investment Service, with bonds rated BAA/BBB not to exceed five percent (5%) of the book value of the total fixed income investments; or corporate short-term obligations of corporations or of wholly owned subsidiaries of corporations, whose short-term obligations are rated A-3 or better by Standard and Poor's or rated P-3 or better by Moody's Investment Service;

(v) Bonds of the Tennessee Valley Authority;

(vi) Bonds, notes, certificates and other valid obligations of the United States, and other valid obligations of any federal instrumentality that issues securities under authority of an act of Congress and are exempt from registration with the Securities and Exchange Commission;

(vii) Bonds, notes, debentures and other securities issued by any federal instrumentality and fully guaranteed by the United States. Direct obligations issued by the United States of America shall be deemed to include securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the provisions of 15 USCS Section 80(a)-1 et seq., provided that the portfolio of such investment company or investment trust is limited to direct obligations issued by the United States of America, United States government agencies, United States government instrumentalities or United States government sponsored enterprises, and to repurchase agreements fully collateralized by direct obligations of the United States of America, United States government agencies, United States government instrumentalities or United States government sponsored enterprises, and the investment company or investment trust takes delivery of such collateral for the repurchase agreement, either directly or through an authorized custodian. The State Treasurer and the Executive Director of the Department of Finance and Administration shall review and approve the investment companies and investment trusts in which funds may be invested;

(viii) Interest-bearing bonds or notes which are general obligations of any other state in the United States or of any city or county therein, provided such city or county had a population as shown by the federal census next preceding such investment of not less than twenty-five thousand (25,000) inhabitants and provided that such state, city or county has not defaulted for a period longer than thirty (30) days in the payment of principal or interest on any of its general obligation indebtedness during a period of ten (10) calendar years immediately preceding such investment;

(ix) Shares of stocks, common and/or preferred, of corporations created by or existing under the laws of the United States or any state, district or territory thereof; provided:

(A) The maximum investments in stocks shall not exceed fifty percent (50%) of the book value of the total investment fund of the system;

(B) The stock of such corporation shall:

1. Be listed on a national stock exchange; or

2. Be traded in the over-the-counter market, provided price quotations for such over-the-counter stocks are quoted by the National Association of Securities Dealers Automated Quotation System (NASDAQ);

(C) The outstanding shares of such corporation shall have a total market value of not less than Fifty Million Dollars ($50,000,000.00);

(D) The amount of investment in any one (1) corporation shall not exceed three percent (3%) of the book value of the assets of the system; and

(E) The shares of any one (1) corporation owned by the system shall not exceed five percent (5%) of that corporation's outstanding stock;

(x) Bonds rated Single A or better, stocks and convertible securities of established non-United States companies, which companies are listed on only primary national stock exchanges of foreign nations; and in foreign government securities rated Single A or better by a recognized rating agency; provided that the total book value of investments under this paragraph shall at no time exceed twenty percent (20%) of the total book value of all investments of the system. The board may take requisite action to effectuate or hedge such transactions through foreign banks, including the purchase and sale, transfer, exchange or otherwise disposal of, and generally deal in foreign exchange through the use of foreign currency, interbank forward contracts, futures contracts, options contracts, swaps and other related derivative instruments, notwithstanding any other provisions of this article to the contrary;

(xi) Covered call and put options on securities traded on one or more of the regulated exchanges;

(xii) Institutional investment trusts managed by a corporate trustee or by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board of directors, and institutional class shares of investment companies and unit investment trusts registered under the Investment Company Act of 1940 where such funds or shares are comprised of common or preferred stocks, bonds, money market instruments or other investments authorized under this section. Any investment manager or managers approved by the board of directors shall invest such funds or shares as a fiduciary;

(xiii) Pooled or commingled real estate funds or real estate securities managed by a corporate trustee or by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board of directors. Such investment in commingled funds or shares shall be held in trust; provided that the total book value of investments under this paragraph shall at no time exceed five percent (5%) of the total book value of all investments of the system. Any investment manager approved by the board of directors shall invest such commingled funds or shares as a fiduciary;

(w) All investments shall be acquired by the board at prices not exceeding the prevailing market values for such securities;

(x) Any limitations herein set forth shall be applicable only at the time of purchase and shall not require the liquidation of any investment at any time. All investments shall be clearly marked to indicate ownership by the system and to the extent possible shall be registered in the name of the system;

(y) Subject to the above terms, conditions, limitations and restrictions, the board shall have power to sell, assign, transfer and dispose of any of the securities and investments of the system, provided that the sale, assignment or transfer has the majority approval of the entire board. The board may employ or contract with investment managers, evaluation services or other such services as determined by the board to be necessary for the effective and efficient operation of the system;

(z) Except as otherwise provided herein, no trustee and no employee of the board shall have any direct or indirect interest in the income, gains or profits of any investment made by the board, nor shall any such person receive any pay or emolument for his services in connection with any investment made by the board. No trustee or employee of the board shall become an endorser or surety, or in any manner an obligor for money loaned by or borrowed from the system;

(aa) All interest derived from investments and any gains from the sale or exchange of investments shall be credited by the board to the account of the system;

(bb) To delegate responsibility for administration of the comprehensive investment plan to a consultant the board determines to be qualified. Such consultant shall be compensated by the board. Directly or through such consultant, the board may contract to provide such services as may be a part of the comprehensive investment plan or as may be deemed necessary or proper by the board or such consultant, including, but not limited to, providing consolidated billing, individual and collective record keeping and accounting, and asset purchase, control and safekeeping;

(cc) To annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the Governor, the Lieutenant Governor, the President of the Senate, the Speaker of the House of Representatives, and members of the Board of Trustees of State Institutions of Higher Learning, the Mississippi Community College Board and the State Board of Education on or before March 31 each year. In addition, the board shall make the report available to purchasers of advance payment contracts. The board shall provide to the Board of Trustees of State Institutions of Higher Learning and the Mississippi Community College Board by March 31 each year complete advance payment contract sales information including projected postsecondary enrollments of beneficiaries. The accounts of the fund shall be subject to annual audits by the State Auditor or his designee;

(dd) To solicit proposals for the marketing of the Mississippi Prepaid Affordable College Tuition Program. The entity designated pursuant to this paragraph shall serve as a centralized marketing agent for the program and shall solely be responsible for the marketing of the program. Any materials produced for the purpose of marketing the programs shall be submitted to the board for review. No such materials shall be made available to the public before the materials are approved by the board. Any educational institution may distribute marketing materials produced for the program; however, all such materials shall have been approved by the board prior to distribution. Neither the state nor the board shall be liable for misrepresentation of the program by a marketing agent; and

(ee) To establish other policies, procedures and criteria necessary to implement and administer the provisions of this article.

For efficient and effective administration of the program and trust fund, the board may authorize the State of Mississippi Treasury Department and/or the State Treasurer to carry out any or all of the powers and duties enumerated above.

SOURCES: Laws, 1996, ch. 427, § 5; Laws, 2000, ch. 391, § 1; Laws, 2000, ch. 473, § 15; Laws, 2003, ch. 311, § 3; Laws, 2014, ch. 397, § 51, eff from and after July 1, 2014.

Joint Legislative Committee Note — Section 1 of ch. 391, Laws of 2000, effective from and after July 1, 2000 (approved April 17, 2000), amended this section. Section 15 of ch. 473, Laws of 2000, effective from and after July 1, 2000 (approved April 25, 2000), also amended this section. As set out above, this section reflects the language of Section 15 of ch. 473, Laws of 2000, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the sections are the same, the amendment with the latest approval date shall supersede all other amendments to the same section approved on an earlier date.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the words "this chapter" to be "this article" throughout the section, as amended by Laws of 2000, ch. 473, § 15. The Joint Committee ratified the correction at its June 29, 2000 meeting.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" twice in (cc).

Cross References — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

Entitlement to refund upon discontinuance of program, see § 37-155-25.

Federal Aspects — Investment Company Act of 1940 appears generally as 15 USCS §§ 80a-1 et seq.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 9 et seq.

§ 37-155-11. Types of plans.

The board shall make prepaid tuition contracts available for the: (1) junior college plan; (2) senior college plan; and (3) junior-senior college plan.

(a) **Junior College Plan** — Through the junior college plan, a prepaid tuition contract shall provide tuition and required fees for the beneficiary to attend a public community or junior college for a specified number of undergraduate credit hours not to exceed the typical full-time hourly course load as defined by the institution for tuition payment purposes or up to a maximum of two (2) years required for a certificate or an associate degree awarded by a public community or junior college.

(b) **Senior College Plan** — Through the senior college plan, a prepaid tuition contract shall provide prepaid tuition and required fees for the beneficiary to attend a public senior college or university for a specified number of undergraduate credit hours not to exceed the typical full-time hourly course load as defined by the institution for tuition payment purposes or up to a maximum of five (5) years required for a baccalaureate degree awarded by a public senior college or university.

(c) **Junior-Senior College Plan** — Through the junior-senior college plan, a prepaid tuition contract shall provide prepaid tuition and required fees for the beneficiary to attend:

(i) A public community or junior college for a specified number of undergraduate credit hours not to exceed the typical full-time hourly course load as defined by the institution for tuition payment purposes or up to a maximum of two (2) years required for a person to receive a certificate or associate degree awarded by a public community or junior college; and

(ii) A public senior college or university for a specified number of credit hours not to exceed the typical full-time hourly course load as defined by the institution for tuition payment purposes or up to a maximum of five (5) years required for the person to receive a baccalaureate degree awarded by a public senior college or university.

SOURCES: Laws, 1996, ch. 427, § 6; Laws, 1999, ch. 378, § 3, eff from and after July 1, 1999.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in this section. The words "Types of Plans. — ", appearing on the first line and preceding the text of the section, were deleted. The Joint Committee ratified the correction at its June 29, 2000 meeting.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 18 et seq.

56 Am. Jur. 2d, Municipal Corporations § 760.

67B Am. Jur. 2d, Schools § 7.

§ 37-155-13. Dormitory residence plan.

Through the dormitory residence plan, the advance payment contract shall provide prepaid housing fees for a maximum of eight (8) semesters of full-time undergraduate enrollment in an institution of higher education. Dormitory residence plans are optional and may be purchased only in conjunction with a prepaid tuition plan. Dormitory residence plans shall be purchased in increments of two (2) semesters. Beneficiaries shall bear the cost of any additional elective charges such as laundry service or long-distance telephone service. Each institution of higher education may specify the residence halls eligible for inclusion in the plan. In addition, any institution of higher education may request immediate termination of a dormitory contract based on a violation or multiple violations of rules of the residence hall. Beneficiaries shall have the highest priority in the assignment of housing with institutions of higher education residence halls. In the event that sufficient housing is not available for all beneficiaries, the board shall refund the purchaser or beneficiary an amount equal to the fees charged for dormitory residence during that semester.

SOURCES: Laws, 1996, ch. 427, § 7, eff from and after July 1, 1996.

§ 37-155-15. Mississippi Prepaid Affordable College Tuition Program Trust Fund.

(1) There is hereby created a Mississippi Prepaid Affordable College Tuition Program Trust Fund (hereinafter referred to as the trust fund or the fund) to be administered by the State of Mississippi Treasury Department until and unless the Legislature shall determine otherwise.

(2) The official location of the trust fund shall be the State of Mississippi Treasury Department, and the facilities of the State of Mississippi Treasury Department shall be used and employed in the administration of the fund, including, but without limitations thereto, the keeping of records, the management of bank accounts and other investments, the transfer of funds and the safekeeping of securities evidencing investments.

(3) Payments received by the board from purchasers on behalf of beneficiaries or from any other source, public or private, shall be placed in the trust fund, and the fund may be divided into separate accounts as may be determined by the board.

(4) The trust fund, through the Treasurer, is hereby specifically authorized to receive and deposit into the trust fund any gift of any nature, real or personal property, made by an individual by testamentary disposition, including, without limitation, any specific gift or bequeath made by will, trust or other disposition.

(5) The board shall obtain appropriate actuarial assistance to establish, maintain and certify a fund sufficient to meet the obligation of the trust fund, and shall annually evaluate or cause to be evaluated, the actuarial soundness of the trust fund. If the board perceives a need for additional assets in order to preserve actuarial soundness, it may adjust the terms of subsequent prepaid tuition contracts to ensure such soundness.

(6) The trust fund shall constitute a fund of an agency of the state, and its property and income shall be exempt from all taxation by the state and by all of its political subdivisions.

(7) In order to provide funds to enable the trust to pay all amounts that shall be due under prepaid tuition contracts, there is hereby irrevocably pledged to that purpose from the trust fund such monies as shall be necessary to pay all amounts that shall be due under prepaid tuition contracts at any time. In order to carry out the said pledge, in each fiscal year the board shall determine the amount of the future obligations of the trust fund under prepaid

tuition contracts by any appropriate actuarial method. After that determination has been made, all monies on deposit in the trust fund up to and including the amount of such future obligations shall remain on deposit in the trust fund and shall be subject to the aforesaid pledge and appropriation by the Legislature.

(8) There is hereby created a separate account with the State of Mississippi Treasury Department to be known as the "Mississippi Prepaid Affordable College Tuition Administrative Account" for the purposes of implementing and maintaining prepaid college tuition accounts pursuant to this article.

SOURCES: Laws, 1996, ch. 427, § 8, eff from and after July 1, 1996.

Editor's Note — Laws of 2000, ch. 473, enacted a new Article 3 of Chapter 155. The previously existing provisions of Chapter 155 became Article 1 of Chapter 155. Therefore, the reference in subsection (8) to "this chapter" has been changed to "this article" to conform with the change.

§ 37-155-17. Prepaid tuition contracts; tax exclusions and deductions.

Any interest, dividends or gains accruing on the payments made pursuant to a prepaid tuition contract under the terms of this article shall be excluded from the gross income of any such payor or beneficiary for purposes of the Mississippi Income Tax Law. The payor may deduct from taxable income the amount of any payments made under a prepaid tuition contract in the tax year.

SOURCES: Laws, 1996, ch. 427, § 9; Laws, 1999, ch. 378, § 4, eff from and after July 1, 1999.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed the words "this chapter" to be "this article." The Joint Committee ratified the correction at its June 29, 2000 meeting.

RESEARCH REFERENCES

Am Jur. 71 Am. Jur. 2d, State and Local Taxation § 290.

§ 37-155-19. Duties of the board.

In addition to any other requirements of this article the board of directors shall:

(a) Make available summary information on the financial condition of the trust fund to all purchasers of prepaid college tuition contracts;

(b) Prepare, or cause to be prepared, an annual accounting of the trust fund and transmit a copy of same to the Governor, the Lieutenant Governor and the Speaker of the House of Representatives; and

(c) Make all necessary and appropriate arrangements with state colleges and universities in order to fulfill its obligations under the prepaid tuition contracts, which arrangements shall include the payment by the trust fund of current applicable tuition and fee charges on behalf of a beneficiary to the college or university.

SOURCES: Laws, 1996, ch. 427, § 10, eff from and after July 1, 1996.

Editor's Note — Laws of 2000, ch. 473, enacted a new Article 3 of Chapter 155. The previously existing provisions of Chapter 155 became Article 1 of Chapter 155. Therefore, the reference in this section to "this chapter" has been changed to "this article" to conform with the change.

RESEARCH REFERENCES

Am Jur. 15A Am. Jur. 2d, Colleges and Universities §§ 4 et seq.

§ 37-155-21. Statement regarding status of prepaid tuition contract.

(1) The board shall furnish without charge to each purchaser an annual statement of:

(a) The amount paid by the purchaser under the prepaid tuition contract;

(b) The number of years originally covered by the contract;

(c) The number of years remaining under the contract; and

(d) Any other information the board determines by rule is necessary or appropriate.

(2) The board shall furnish a statement complying with subsection (1) to a purchaser or beneficiary on written request. The board may charge a reasonable fee for each statement furnished under this subsection.

SOURCES: Laws, 1996, ch. 427, § 11; Laws, 1999, ch. 378, § 5, eff from and after July 1, 1999.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in this section. The words "Statement Regarding Status of Prepaid Tuition Contract.", appearing on the first line and preceding the text of the section, were deleted. The Joint Committee ratified the correction at its June 29, 2000 meeting.

§ 37-155-23. No promise or guarantee of admission.

This article is not a promise or guarantee that the beneficiary will be:

(a) Admitted to any institution of higher education;

(b) Admitted to a particular institution of higher education after admission;

(c) Allowed to continue enrollment at an institution of higher education; or

(d) Graduated from an institution of higher education.

SOURCES: Laws, 1996, ch. 427, § 12, eff from and after July 1, 1996.

Editor's Note — Laws of 2000, ch. 473, enacted a new Article 3 of Chapter 155. The previously existing provisions of Chapter 155 became Article 1 of Chapter 155. Therefore, the reference in this section to "this chapter" has been changed to "this article" to conform with the change.

§ 37-155-25. Full faith and credit.

The state shall agree to meet the obligations of the board to beneficiaries if monies in the fund fail to offset the obligations of the board. If there is not enough money in the fund to pay the tuition and required fees of the institution of higher education in which a beneficiary enrolls as provided by the prepaid tuition contract, the Legislature shall appropriate to the fund the amount necessary for the board to pay the applicable amount of tuition and required fees of the institution.

In the event that the board determines the program to be financially infeasible, the board may discontinue the program. Any qualified beneficiary who has been accepted by and is enrolled or is within five (5) years of enrollment in an institution of higher learning or any in-state or out-of-state regionally accredited private four- or two-year college or an out-of-state regionally accredited, state-supported, nonprofit four- or two-year college or university shall be entitled to exercise the complete benefits for which he has contracted. All other contract holders shall receive a refund, pursuant to Section 37-155-9, of the amount paid in and an additional amount in the nature of interest at a rate that corresponds, at a minimum, to the prevailing interest rates for savings accounts provided by banks and savings and loan associations.

SOURCES: Laws, 1996, ch. 427, § 13, eff from and after July 1, 1996.

§ 37-155-27. Severability.

The provisions of this article are severable. If any part of this article is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

SOURCES: Laws, 1996, ch. 427, § 14, eff from and after July 1, 1996.

Editor's Note — Laws of 2000, ch. 473, enacted a new Article 3 of Chapter 155. The previously existing provisions of Chapter 155 became Article 1 of Chapter 155. Therefore, the reference in this section to "this chapter" has been changed to "this article" to conform with the change.

ARTICLE 3.

MISSISSIPPI AFFORDABLE COLLEGE SAVINGS (MACS) PROGRAM.

SEC.
37-155-101. Short title.

37-155-103. Declaration of purpose.
37-155-105. Definitions.
37-155-107. Powers of the board of directors.
37-155-109. Savings trust agreements.
37-155-111. Mississippi Affordable College Savings Trust Fund.
37-155-113. Property in Trust Fund exempt from taxation; tax deduction for contributions to MACS accounts.
37-155-115. Authority of board to invest funds in Trust Fund.
37-155-117. Board to provide annual accounting statements.
37-155-119. No promise or guarantee of beneficiary's admission.
37-155-121. No guarantee that higher education expenses will be covered in full.
37-155-123. Monies in MACS or MPACT Programs not considered in determining eligibility for need-based financial aid.
37-155-125. Severability.

§ 37-155-101. Short title.

This article shall be known and may be cited as the "Mississippi Affordable College Savings Program."

SOURCES: Laws, 2000, ch. 473, § 1, eff from and after July 1, 2000.

§ 37-155-103. Declaration of purpose.

The following are the purposes of this article:

(a) To provide a program of savings trust agreements to apply distributions toward qualified higher education expenses at eligible educational institutions, as defined in Section 529 of the Internal Revenue Code, as amended, or other applicable federal law.

(b) To provide for the creation of a trust fund, as an instrumentality of the State of Mississippi, to assist qualified students in financing costs of attending institutions of higher education.

(c) To encourage timely financial planning for higher education by the creation of savings trust accounts.

(d) To provide a choice of programs to persons who determine that the overall educational needs of their families are best suited to a prepaid tuition contract under the Mississippi Prepaid Affordable College Tuition (MPACT) Program, a savings trust agreement under this article, or both.

(e) To provide a savings program for those persons who wish to save to meet post secondary educational needs beyond the traditional baccalaureate curriculum.

SOURCES: Laws, 2000, ch. 473, § 2, eff from and after July 1, 2000.

Cross References — Mississippi Prepaid Affordable College Tuition (MPACT) Program, see §§ 37-155-1 et seq.

Federal Aspects — Qualified higher education expenses at eligible educational institutions, as defined in § 529 of the Internal Revenue Code, see 26 USCS § 529.

§ 37-155-105. Definitions.

As used in this article, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "MACS Program" means the Mississippi Affordable College Savings Program established under this article.

(b) "MACS Trust Fund" means a special fund in the State Treasury established under Section 37-155-111, and administered by the Treasury Department.

(c) "Account owner" means a resident or nonresident person, corporation, trust, charitable organization or other entity which contributes to or invests money in a savings trust account under the MACS Program on behalf of a beneficiary and which is listed as the owner of the savings trust account.

(d) "Beneficiary" means a resident or nonresident beneficiary of a savings trust agreement who meets the requirements of Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law, and any regulations established by the board.

(e) "Institution of higher education" means an eligible educational institution as defined in Section 529 of the Internal Revenue Code of 1986, as amended, or any other applicable federal law.

(f) "Tuition" means the quarter, semester or term charges and all required fees imposed by an institution of higher education as a condition of enrollment by all students.

(g) "Board" means the Board of Directors of the College Savings Plans of Mississippi Trust Funds established under Section 37-155-7.

(h) "Payor" means a person, corporation, trust, charitable organization or other such entity which contributes money or makes a payment to either a savings trust account established pursuant to this article or a prepaid tuition account established under Sections 37-155-1 through 37-155-27 on behalf of a beneficiary.

(i) "Savings trust account" means an account established by an account owner pursuant to this article on behalf of a beneficiary in order to apply distributions from the account toward qualified higher education expenses at eligible educational institutions, as defined in Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

(j) "Savings trust agreement" means the agreement entered into between the board and the account owner establishing a savings trust account.

(k) "Qualified higher education expense" means any higher education expense, as defined in Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

(*l*) "Qualified withdrawal" means a withdrawal by an account owner or beneficiary for qualified higher education expenses or as otherwise permitted under Section 529 of the Internal Revenue Code of 1986, as amended, without a penalty required under the Internal Revenue Code.

SOURCES: Laws, 2000, ch. 473, § 3, eff from and after July 1, 2000.

Federal Aspects — "Section 529 of the Internal Revenue Code of 1986," referred to throughout the section, is codified at 26 USCS § 529.

§ 37-155-107. Powers of the board of directors.

In addition to those powers granted to the board by Sections 37-155-1 through 37-155-27 and any other provisions of this article, the board shall have the powers necessary or convenient to carry out the purposes and provisions of this article, the purposes and objectives of the trust fund, and the powers delegated by any other law or executive order of this state, including, but not limited to, the following express powers:

(a) To adopt such rules and regulations as are necessary to implement this article, subject to applicable federal laws and regulations, including rules regarding transfers of funds between accounts established under prepaid tuition contracts and savings trust agreements;

(b) To impose reasonable requirements for residency for beneficiaries or account owners at the time of purchase of the savings trust agreement;

(c) To contract for necessary goods and services, to employ necessary personnel, and to engage the services of consultants and other qualified persons and entities for administrative and technical assistance in carrying out the responsibilities of the trust funds under terms and conditions that the board deems reasonable, including contract terms for periods up to ten (10) years at which time a contract may be terminated, extended or renewed for a term determined by the board, not to exceed a term of ten (10) years at any one time;

(d) To solicit and accept gifts, including bequests or other testamentary gifts made by will, trust or other disposition grants, loans and other aids from any personal source or to participate in any other way in any federal, state or local governmental programs in carrying out the purposes of this article;

(e) To define the terms and conditions under which payments may be withdrawn or refunded from the trust fund established under this article to impose reasonable charges for a withdrawal or refund;

(f) To impose reasonable time limits on the use of savings trust account distributions provided by the MACS Program;

(g) To regulate the receipt of contributions or payments to the MACS Trust Fund;

(h) To segregate contributions and payments to the MACS Trust Fund into various accounts and funds;

(i) To require and collect administrative fees and charges in connection with any transaction and to impose reasonable penalties for withdrawal of funds for nonqualified higher educational expenses or for entering into a savings trust agreement on a fraudulent basis;

(j) To procure insurance against any loss in connection with the property, assets and activities of the MACS Trust Fund or the board;

(k) To require that account owners of savings trust agreements or purchasers of Mississippi Prepaid Affordable College Tuition (MPACT) contracts under Sections 37-155-1 through 37-155-27 verify, under oath, any requests for contract conversions, substitutions, transfers, cancellations, refund requests or contract changes of any nature;

(*l*) To solicit proposals and to contract for the marketing of the MACS Program, provided that: (i) any materials produced by a marketing contractor for the purpose of marketing the program must be approved by the board before being made available to the public; and (ii) neither the state nor the board shall be liable for misrepresentation of the program by a marketing contractor;

(m) To delegate responsibility for administration of the comprehensive investment plan to a contractor or contractors or a consultant or consultants that the board determines is qualified;

(n) To make all necessary and appropriate arrangements with colleges and universities or other entities in order to fulfill its obligations under savings trust agreements;

(o) To establish other policies, procedures and criteria necessary to implement and administer this article; and

(p) To authorize the Treasury Department or the State Treasurer, or both, to carry out any or all of the powers and duties enumerated in this section for efficient and effective administration of the MACS Program and MACS Trust Fund.

SOURCES: Laws, 2000, ch. 473, § 4, eff from and after July 1, 2000.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected typographical errors in section. The word "Section" was changed to "Sections" in the introductory paragraph, and in paragraph (c), the words "under terms and conditions of that the board deems reasonable" were changed to "under terms and conditions that the board deems reasonable." The Joint Committee ratified these corrections at its May 16, 2002 meeting, and the section has been reprinted in the supplement to reflect the corrected language.

Cross References — Mississippi Affordable College Savings (MACS) Trust Fund, see § 37-155-111.

§ 37-155-109. Savings trust agreements.

(1) The board shall make savings trust agreements available to the public, under which account owners or other payors may make contributions on behalf of qualified beneficiaries. Contributions and investment earnings on the contributions may be used for any qualified higher educational expenses of a designated beneficiary. The state does not guarantee that such contributions, together with the investment return on such contributions, if any, will be adequate to pay for qualified education expenses in full.

(2) Each savings trust agreement made pursuant to this article shall include the following terms and provisions:

(a) The maximum and minimum contribution allowed on behalf of each beneficiary for the payment of qualified higher education expenses at eligible institutions, both as defined in Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law;

(b) Provisions for withdrawals, refunds, transfers and any penalties;

(c) The name, address and date of birth of the beneficiary on whose behalf the savings trust account is opened;

(d) Terms and conditions for a substitution of the beneficiary originally named;

(e) Terms and conditions for termination of the account, including any refunds, withdrawals or transfers, and applicable penalties, and the name of the person or persons entitled to terminate the account;

(f) The time period during which the beneficiary must use benefits from the savings trust account;

(g) All other rights and obligations of the account owner and the MACS Trust Fund; and

(h) Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law or regulations.

SOURCES: Laws, 2000, ch. 473, § 5, eff from and after July 1, 2000.

Cross References — Mississippi Affordable College Savings (MACS) Trust Fund, see § 37-155-111.

Federal Aspects — Qualified higher education expenses at eligible educational institutions, as defined in § 529 of the Internal Revenue Code, see 26 USCS § 529.

§ 37-155-111. Mississippi Affordable College Savings Trust Fund.

(1) There is created a Mississippi Affordable College Savings Trust Fund as an instrumentality of the state to be administered by the Treasury Department. The MACS Trust Fund shall consist of state appropriations, monies acquired from other governmental or private sources and money remitted in accordance with savings trust agreements and shall receive and hold all payments, contributions and deposits intended for it as well as gifts, bequests, endowments or federal, state or local grants and any other public or private source of funds and all earnings on the fund until disbursed as provided under this section. The amounts on deposit in the trust fund shall not constitute property of the state. Amounts on deposit in the trust fund may not be commingled with state funds, and the state may have no claim to or interest in such funds. Savings trust agreements or any other contract entered into by or on behalf of the trust do not constitute a debt or obligation of the state, and no account owner is entitled to any amounts except for those amounts on deposit in or accrued to their account.

The MACS Trust Fund shall continue in existence as long as it holds any funds belonging to an account owner or otherwise has any obligations to any person or entity until its existence is terminated by the Legislature and remaining assets on deposit in the fund are returned to account owners or transferred to the state in accordance with unclaimed property laws.

(2) There are created the following three (3) separate accounts within the MACS Trust Fund: (a) the administrative account; (b) the endowment account; and (c) the program account. The administrative account shall accept, deposit and disburse funds for the purpose of administering and marketing the program. The endowment account shall receive and deposit accounts received in connection with the sales of interests in the MACS Trust Fund other than amounts for the administrative account and other than amounts received pursuant to a savings trust agreement. Amounts on deposit in the endowment account may be applied as specified by the board for any purpose related to the program or to otherwise assist Mississippi residents to attain a postsecondary education. The program account shall receive, invest and disburse amounts pursuant to savings trust agreements.

(3) The official location of the trust fund shall be the State of Mississippi Treasury Department, and the facilities of the Treasury Department shall be used and employed in the administration of the fund, including, but without limitation to, the keeping of records, the management of bank accounts and other investments, the transfer of funds and the safekeeping of securities evidencing investments. These functions may be administered pursuant to a management agreement with a qualified entity or entities.

(4) Payments received by the board on behalf of beneficiaries from account owners, other payors or from any other source, public or private, shall be placed in the trust fund, and the board shall cause there to be maintained separate records and accounts for individual beneficiaries, as may be required under Section 529 of the Internal Revenue Code of 1986, as amended, and any other applicable federal law.

(5) Account owners and any other payors or contributors shall be permitted only to contribute cash or any other form of payment or contribution as is permitted under Section 529 of the Internal Revenue Code of 1986, as amended, and approved by the board. The board shall cause the program to maintain adequate safeguards against contributions in excess of what may be required for qualified higher education expenses. The MACS Trust Fund, through the Treasurer, may receive and deposit into the trust fund any gift of any nature, real or personal property, made by an individual by testamentary disposition, including, without limitation, any specific gift or bequeath made by will, trust or other disposition to the extent permitted under Section 529 of the Internal Revenue Code of 1986, as amended. The MACS Trust Fund may receive amounts transferred from an UGMA, UTMA or other account established for the benefit of a minor if the trust beneficiary of such an account is identified as the legal owner of the MACS Trust Fund account upon attaining majority age.

(6) The account owner retains ownership of all amounts on deposit in his or her account with the program up to the date of distribution on behalf of a designated beneficiary. Earnings derived from investment of the contributions

shall be considered to be held in trust in the same manner as contributions, except as applied for purposes of the designated beneficiary and for purposes of maintaining and administrating the program as provided in this article. Amounts on deposit in an account owner's account shall be available for expenses and penalties imposed by the board for the program as disclosed in the savings trust agreement.

(7) The MACS Trust Fund shall constitute a fund of an instrumentality of the state, and its property and income shall be exempt from all taxation by the state and by all of its political subdivisions.

(8) The assets of the MACS Trust Fund shall be preserved, invested and expended solely pursuant to and for the purposes of this article and shall not be loaned or otherwise transferred or used by the state for any other purpose.

SOURCES: Laws, 2000, ch. 473, § 6, eff from and after July 1, 2000.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in subsection (1). The words "The amounts on deposit on the trust fund" were changed to "The amounts on deposit in the trust fund." The Joint Committee ratified the correction at its May 16, 2002 meeting, and the section has been reprinted in the supplement to reflect the corrected language.

Federal Aspects — "Section 529 of the Internal Revenue Code of 1986," referred to throughout the section, is codified at 26 USCS § 529.

§ 37-155-113. Property in Trust Fund exempt from taxation; tax deduction for contributions to MACS accounts.

(1) All property and income of the MACS Trust Fund, as an instrumentality of the state, is exempt from all taxation by the state and by its political subdivisions.

(2) Any contributor or payor to a MACS Program account may deduct from their Mississippi taxable income any contributions or payments to an account or accounts in the MACS Trust Fund up to a maximum annual amount of Twenty Thousand Dollars ($20,000.00) for joint filers and Ten Thousand Dollars ($10,000.00) for single and other filers. Contributions or payments for such tax years may be made after such calendar years but before the deadline for making contributions to an individual retirement account under federal law for such years. The earnings portion of any withdrawals from an account that are not qualified withdrawals, as well as any amounts included in such nonqualified withdrawals previously deducted from taxable income under this section, shall be included in the gross income of the resident recipient of the withdrawal for purposes of the Mississippi Income Tax Law in the year of such withdrawal.

SOURCES: Laws, 2000, ch. 473, § 7, eff from and after July 1, 2000.

Cross References — Adjustments to gross income, see § 27-7-18.

§ 37-155-115. Authority of board to invest funds in Trust Fund.

(1) The board has authority to establish a comprehensive investment plan for the purposes of this article, to invest any funds of the MACS Trust Fund in any instrument, obligation, security or property that constitutes legal investments for public funds in the state, and to name and use depositories for its investments and holdings. The comprehensive investment plan shall specify the investment policies to be utilized by the board in its administration of the funds. The board may authorize investments in any investment vehicle authorized for the Mississippi Prepaid Affordable College Tuition (MPACT) Program under Section 37-155-9. However, the restrictions in Section 37-155-9 as to percentages of the total fund that may be invested in any category of authorized investment shall not apply to the MACS Trust Fund. The program account, in its discretion, may invest in obligations of the state or any political subdivision of the state or in any business entity in the state.

Notwithstanding any state law to the contrary, the board shall invest or cause to be invested amounts on deposit in the MACS Trust Fund, including the program account, in a manner reasonable and appropriate to achieve the objectives of the program, exercising the discretion and care of a prudent investor in similar circumstances with similar objectives. The board shall give due consideration to the risk, expected rate of return, term or maturity, diversification of total investments, liquidity and anticipated investments in and withdrawals from the MACS Trust Fund.

(2) All investments shall be acquired by the board at prices not exceeding the prevailing market values for such securities.

(3) Any limitations set forth in this section shall be applicable only at the time of purchase and shall not require the liquidation of any investment at any time. All investments shall be marked clearly to indicate ownership by the system and, to the extent possible, shall be registered in the name of the system.

(4) Subject to the terms, conditions, limitations and restrictions set forth in this section, the board may sell, assign, transfer and dispose of any of the securities and investments of the system if the sale, assignment or transfer has the majority approval of the entire board. The board may employ or contract with investment managers, evaluation services, or other such services as determined by the board to be necessary for the effective and efficient operation of the system.

(5) Except as otherwise provided in this section, no trustee or employee of the board may have any direct or indirect interest in the income, gains or profits of any investment made by the board, and such person may not receive any pay or emolument for his services in connection with any investment made by the board. No trustee or employee of the board may become an endorser or surety or in any manner an obligor for money loaned by or borrowed from the system.

(6) Under the authority granted in Section 37-155-107, the board may establish criteria for investment managers, mutual funds or other such

entities to act as contractors or consultants to the board. The board may contract, either directly or through such contractors or consultants, to provide such services as may be a part of the comprehensive investment plan or as may be deemed necessary or proper by the board, including, but not limited to, providing consolidated billing, individual and collective record keeping and accounting, and asset purchase, control and safekeeping.

(7) No account owner, contributor, payor or beneficiary may directly or indirectly direct the investment of any account except as may be permitted under Section 529 of the Internal Revenue Code of 1986, as amended.

(8) The board may approve different investment plans and options to be offered to participants to the extent permitted under Section 529 of the Internal Revenue Code of 1986, as amended, and consistent with the objectives of this article and may require the assistance of investment counseling before participation in different options.

(9) Interests or accounts in the MACS Trust Fund and transactions in such interests or accounts shall be exempt from Sections 75-71-113 and 75-71-401.

SOURCES: Laws, 2000, ch. 473, § 8; Laws, 2006, ch. 474, § 17, eff from and after July 1, 2006.

Editor's Note — Section 75-71-113, referred to in this section, was repealed by Section 2 of Chapter 528, Laws of 2009, effective January 1, 2010.

Cross References — Uniform Prudent Investor Act, see §§ 91-9-601 et seq.

Federal Aspects — "Section 529 of the Internal Revenue Code of 1986," referred to in (7) and (8), is codified at 26 USCS § 529.

ATTORNEY GENERAL OPINIONS

The intent of the Legislature in enacting the "notwithstanding clause" in the second paragraph of subsection (1) is to expand the College Savings Plan Board's authority to invest beyond the restrictive investment language in the MPACT statute and to allow the board to invest funds in such manner as deemed reasonable and prudent to achieve the objectives of the program. Bennett, Mar. 1, 2001, A.G. Op. #01-0765.

The Mississippi Affordable College Savings Program is exempt from registration under the Mississippi Securities Act and, to that extent, complies with the Mississippi Securities Law. Bennett, July 10, 2002, A.G. Op. #02-0344.

§ 37-155-117. Board to provide annual accounting statements.

(1) The board shall furnish, without charge, to each account owner an annual statement of the following:

(a) The amount contributed by the account owner under the savings trust agreement;

(b) The annual earnings and accumulated earnings on the savings trust account; and

(c) Any other terms and conditions that the board deems by rule is necessary or appropriate, including those necessary to conform the savings trust account with the requirements of Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law or regulations.

(2) The board shall furnish an additional statement complying with subsection (1) to an account owner or beneficiary on written request. The board may charge a reasonable fee for each statement furnished under this subsection.

(3) The board shall prepare or cause to be prepared an annual report setting forth in appropriate detail an accounting of the funds and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and members of the Board of Trustees of State Institutions of Higher Learning, the Mississippi Community College Board and the State Board of Education. In addition, the board shall make the report available to account owners of savings trust agreements. The accounts of the fund shall be subject to annual audits by the State Auditor or his designee.

SOURCES: Laws, 2000, ch. 473, § 9; Laws, 2014, ch. 397, § 52, eff from and after July 1, 2014.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in (3).

Federal Aspects — Section 529 of the Internal Revenue Code of 1986, referred to in (1)(c), is codified at 26 USCS § 529.

§ 37-155-119. No promise or guarantee of beneficiary's admission.

This article is not a promise or guarantee that the beneficiary will be:

(a) Admitted to any institution of higher education;

(b) Admitted to a particular institution of higher education after admission;

(c) Allowed to continue enrollment at an institution of higher education; or

(d) Graduated from an institution of higher education.

SOURCES: Laws, 2000, ch. 473, § 10, eff from and after July 1, 2000.

§ 37-155-121. No guarantee that higher education expenses will be covered in full.

Nothing in this article or in any savings trust agreement entered into pursuant to this article shall be construed as a promise or guarantee by the state or any agency or instrumentality of the state that either qualified higher education expenses in general or any specific qualified higher education expense shall be covered in full by contributions or earnings on any savings trust account. Savings trust accounts and agreements entered into pursuant to this article are not guaranteed by the full faith and credit of the State of Mississippi.

SOURCES: Laws, 2000, ch. 473, § 11, eff from and after July 1, 2000.

§ 37-155-123. Monies in MACS or MPACT Programs not considered in determining eligibility for need-based financial aid.

Notwithstanding any state law to the contrary, no monies on deposit in either the MACS or MPACT Programs shall be considered an asset of the parent, guardian or student for purposes of determining an individual's eligibility for a need-based grant, need-based scholarship or need-based work opportunity offered or administered by any state agency except as may be required by the funding source of such financial aid.

SOURCES: Laws, 2000, ch. 473, § 12, eff from and after July 1, 2000.

§ 37-155-125. Severability.

The provisions of this article are severable. If any part of this article is declared invalid or unconstitutional, such declaration shall not affect the parts of this article which remain.

SOURCES: Laws, 2000, ch. 473, § 13, eff from and after July 1, 2000.

CHAPTER 157

Student Tuition Assistance

Sec.
37-157-1 and 37-157-3. Repealed

§§ 37-157-1 and 37-157-3. Repealed.

Repealed by Laws of 2014, ch. 538, § 38, effective July 1, 2014.

§ 37-157-1. [Laws, 1997, ch. 381, § 1; Laws, 1998, ch. 565, § 1; Laws, 1999, ch. 503, § 1; Laws, 2013, ch. 467, § 1; Laws, 2014, ch. 397, § 53, effective July 1, 2014.]

§ 37-157-3. [Laws, 1997, ch. 381, § 2, eff from and after July 1, 1997.]

Joint Legislative Committee Note — Section 53 of Chapter 397, Laws of 2014, effective July 1, 2014 (approved March 19, 2014), purported to amend Section 37-157-1. Section 38 of Chapter 538, Laws of 2014, effective from and after July 1, 2014 (approved May 1, 2014), repealed Section 37-157-1. As set out above, this section reflects the repeal of Section 37-157-1 by Section 38 of Chapter 538, Laws of 2014, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section effective on an earlier date.

Editor's Note — Former § 37-157-1 provided for the student tuition assistance program.

Former § 37-157-3 created the Student Tuition Assistance Trust Fund.

CHAPTER 159

Mississippi Teacher Scholarship Programs

Mississippi Critical Needs Teacher Scholarship Program 37-159-1
Mississippi Dyslexia Education Scholarship Program 37-159-51

MISSISSIPPI CRITICAL NEEDS TEACHER SCHOLARSHIP PROGRAM

Sec.
37-159-1. Short title [Repealed effective July 1, 2020].
37-159-3. Repealed.
37-159-5. Reimbursement of relocation expenses; teachers moving to geographical areas short of teachers; residency requirements [Repealed effective July 1, 2020].
37-159-7. Reimbursement of interviewing expenses; teachers moving to geographical areas short of teachers [Repealed effective July 1, 2020].
37-159-9. University Assisted Teacher Recruitment and Retention Grant Program; geographical areas short of teachers; eligibility for participation; funding; reimbursement of expenses; failure to comply with commitment [Repealed effective July 1, 2020].
37-159-11. Mississippi Employer-Assisted Housing Teacher Program; service to geographical areas short of teachers; eligibility for participation; failure to comply with commitment [Repealed effective July 1, 2020].
37-159-13. Construction of rental housing; West Tallahatchie school district; selection of developer; funding; liability; operation; priority for residence [Repealed effective July 1, 2020].
37-159-15. Repealed.
37-159-17. Mississippi Critical Teacher Shortage Fund; establishment; deposit and use of funds [Repealed effective July 1, 2020].

§ 37-159-1. Short title [Repealed effective July 1, 2020].

This act [Laws of 1998, Chapter 544] shall be known and may be cited as the "Mississippi Critical Teacher Shortage Act of 1998."

This section shall stand repealed on July 1, 2020.

SOURCES: Laws, 1998, ch. 544, § 1; Laws, 2014, ch. 538, § 46, eff from and after July 1, 2014.

Editor's Note — Laws of 1998, ch. 544, enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1.

The preamble to Laws of 1998, ch. 544, provides in pertinent part:

"WHEREAS, in many rural areas and communities in the State of Mississippi, particularly in the Mississippi Delta, there exists a critical shortage of qualified teachers that continues to grow at an increasing rate as the number of teachers in those areas who are eligible for retirement escalates while fewer college students aspire to a career in teaching; and

"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

Laws of 2010, ch. 484, § 1, as amended by Laws of 2011, ch. 512, § 2, and as amended by Laws of 2013, ch. 566, § 5, provides:

"SECTION 1.(1) The Task Force to Study Strategies for Solving the Current Teacher Shortage in Mississippi is created to study and make recommendations to the Governor and the Legislature regarding teacher attrition, retention and growth in our state. The task force shall study and make recommendations on the following key areas:

"(a) Teacher salaries;

"(b) Future educators;

"(c) Working conditions of educators;

"(d) Relevant professional development for educators;

"(e) Adequate and equitable resources and support for educators;

"(f) Safety and respect in the schools; and

"(g) Parental and community involvement in the schools.

"(h) The teacher salary scale under the Mississippi Adequate Education Program;

"(i) Step increases and annual increments under the teacher salary scale;

"(j) Merit pay for teachers;

"(k) Teacher pay for failing schools;

"(*l*) Local supplements to teacher salaries;

"(m) Nonadequate education program funded teachers; and

"(n) Adequate and equitable resources and support for teacher salaries.

"(2) Members of the task force shall be composed of the following:

"(a) The State Superintendent of Public Education, or his designee;

"(b) One (1) person appointed by the Governor;

"(c) The Chairmen of the Senate and House Education Committees;

"(d) The Chairmen of the Senate and House Universities and Colleges Committees;

"(e) The Chairmen of the Senate and House Appropriations Committees;

"(f) Three (3) classroom teachers appointed by the State Board of Education, one (1) to be an elementary teacher, one (1) to be a middle school teacher and one (1) to be a high school teacher;

"(g) One (1) assistant teacher appointed by the Mississippi Association of Educators;

"(h) One (1) principal appointed by the State Board of Education;

"(i) One (1) local school superintendent appointed by the Mississippi Association of School Superintendents;

"(j) Two (2) Deans of the College of Education of a Mississippi public or private university appointed by the Board of Trustees of State Institutions of Higher Learning;

"(k) The Commissioner of Higher Education, or his designee; and;

"(*l*) The Executive Director of the State Board for Community and Junior Colleges, or his designee.

"Appointments to the task force shall be made within thirty (30) days after the effective date of this act. The task force shall hold its first meeting not later than August 1, 2010, with the date, time and location of the meeting to be designated by the State Superintendent of Education. At the first meeting the task force shall elect from among its membership a chairman, vice chairman and any other officers determined to be necessary, who shall organize the task force for business and determine the date and locations of subsequent meetings.

"Members of the task force shall serve without compensation for their services, but may be reimbursed for necessary expense in attending to the actual business of the task force from any available funds, as provided by law. Legislative members shall be reimbursed from the contingent expense fund of their respective house, but only with the specific approval of the Rules Committee of the respective house. The task force, by approval of a majority of its membership, may accept funds that may be donated or provided in the form of grants from public or private sources.

"(3) Any department, agency or court of this state, at the request of the chairman of the task force, shall provide staff and other support necessary for the task force to perform its duties.

"(4) Upon presentation of its report to the Governor and the 2014 Regular Session of the Legislature, the task force shall be dissolved."

Amendment Notes — The 2014 amendment substituted "Chapter" for "ch." and added the last paragraph.

§ 37-159-3. Repealed.

Repealed by Laws of 2014, ch. 538, § 39, effective from and after July 1, 2014.

§ 37-159-3. [Laws, 1998, ch. 544, § 2; Laws, 2002, ch. 587, § 3; Laws, 2003, ch. 337, § 1; Laws, 2004, ch. 409, § 3; Laws, 2011, ch. 442, § 18; Laws, 2012, ch. 315, § 1, eff from and after passage (approved Apr. 3, 2012).]

Editor's Note — Former § 37-159-3 established the Critical Needs Teacher Scholarship Program. For present similar provisions, see § 37-106-55.

§ 37-159-5. Reimbursement of relocation expenses; teachers moving to geographical areas short of teachers; residency requirements [Repealed effective July 1, 2020].

The State Board of Education shall prescribe rules and regulations which, subject to available appropriations, allow for reimbursement to the state licensed teachers, from both in state and out of state, who enter into a contract for employment in a school district situated within a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, for the expense of moving when the employment necessitates the relocation of the teacher to a different geographical area than that in which the teacher resides before entering into such contract. In order to be eligible for the reimbursement, the teacher must apply to the local district and the district must obtain the prior approval from the department for reimbursement before the relocation occurs. If the reimbursement is approved, the department shall provide funds to the school district to reimburse the teacher an amount not to exceed One Thousand Dollars ($1,000.00) for the documented actual expenses incurred in the course of relocating, including the expense of any professional moving company or persons employed to assist with the move, rented moving vehicles or equipment, mileage in the amount authorized for state employees under Section 25-3-41 if the teacher used his personal vehicle or vehicles for the move, meals and such other expenses associated with the relocation in accordance with the department's established rules and regulations. No teacher may be reimbursed for moving expenses under this section on more than one (1) occasion.

Nothing in this section shall be construed to require the actual residence to which the teacher relocates to be within the boundaries of the school district which has executed a contract for employment with the teacher or within the boundaries of the area designated by the State Board of Education as the critical teacher shortage area in order for the teacher to be eligible for reimbursement for his moving expenses. However, teachers must relocate within the boundaries of the State of Mississippi.

This section shall stand repealed July 1, 2020.

SOURCES: Laws, 1998, ch. 544, § 6; Laws, 2014, ch. 538, § 47, eff from and after July 1, 2014.

Editor's Note — Laws of 1998, ch. 544, which enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1, may be cited as the "Mississippi Critical Teacher Shortage Act of 1998" pursuant to Section 37-159-1.

The preamble to Laws of 1998, ch. 544, provides in pertinent part:

"WHEREAS, in many rural areas and communities in the State of Mississippi, particularly in the Mississippi Delta, there exists a critical shortage of qualified teachers that continues to grow at an increasing rate as the number of teachers in those areas who are eligible for retirement escalates while fewer college students aspire to a career in teaching; and

"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

Amendment Notes — The 2014 amendment added the last paragraph.

§ 37-159-7. Reimbursement of interviewing expenses; teachers moving to geographical areas short of teachers [Repealed effective July 1, 2020].

The school board of any school district situated within a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, in its discretion, may reimburse persons who interview for employment as a licensed teacher with the district for the mileage and other actual expenses incurred in the course of travel to and from the interview by such persons at the rate authorized for county and municipal employees under Section 25-3-41. Any reimbursement by a school board under this section shall be paid from nonminimum education program funds.

This section shall stand repealed July 1, 2020.

SOURCES: Laws, 1998, ch. 544, § 7; Laws, 2014, ch. 538, § 48, eff from and after July 1, 2014.

Editor's Note — Laws of 1998, ch. 544, which enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1, may be cited as the "Mississippi Critical Teacher Shortage Act of 1998" pursuant to Section 37-159-1.

The preamble to Laws of 1998, ch. 544, provides in pertinent part:

"WHEREAS, in many rural areas and communities in the State of Mississippi, particularly in the Mississippi Delta, there exists a critical shortage of qualified teachers that continues to grow at an increasing rate as the number of teachers in those areas who are eligible for retirement escalates while fewer college students aspire to a career in teaching; and

"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

Amendment Notes — The 2014 amendment added the last paragraph.

§ 37-159-9. University Assisted Teacher Recruitment and Retention Grant Program; geographical areas short of teachers; eligibility for participation; funding; reimbursement of expenses; failure to comply with commitment [Repealed effective July 1, 2020].

(1) There is established the University Assisted Teacher Recruitment and Retention Grant Program within the State Department of Education. The purposes of the program shall be to attract additional qualified teachers to those geographical areas of the state where there exists a critical shortage of teachers and to retain the qualified teachers already serving as licensed teachers in geographical critical teacher shortage areas by making available scholarships to persons working towards a Master of Education degree or an Educational Specialist degree at an institution of higher learning whose teacher education program is approved by the State Board of Education.

(2) Any institution of higher learning in the State of Mississippi which offers a Master of Education degree or an Educational Specialist degree may apply to the department for participation in the program. As part of the program, participating institutions shall collaborate with the Mississippi Teacher Center to identify, recruit and place teacher education graduates, from both within the state and out of state, in school districts situated within those areas of the state where there exists a critical shortage of teachers, as designated by the State Board of Education.

(3) The State Department of Education shall provide funds to participating institutions of higher learning for the purpose of awarding scholarships to qualified persons pursuing a Master of Education degree or an Educational Specialist degree at such institutions while rendering service to the state as a licensed teacher in a school district in a geographical area of the state where there exists a critical shortage of teachers, as approved by the State Board of Education. The financial scholarship shall be applied to the total cost for tuition, books, materials and fees at the institution in which the student is enrolled, not to exceed an amount equal to the highest total cost of tuition, books, materials and fees assessed by a state institution of higher learning during that school year. Teachers who relocate within Mississippi from out of

state in order to participate in the program shall be classified as residents of the state for tuition purposes.

(4) Students awarded financial scholarships under the University Assisted Teacher Recruitment and Retention Grant Program may receive such awards for a maximum of four (4) school years; however, the maximum number of awards which may be made shall not exceed the length of time required to complete the number of academic hours necessary to obtain a Master of Education degree or an Educational Specialist degree. Financial scholarships under the program shall not be based upon an applicant's eligibility for financial aid.

(5) Persons relocating to a geographical area of the state where there exists a critical shortage of teachers, as approved by the State Board of Education, to participate in the University Assisted Teacher Recruitment and Retention Grant Program shall be eligible for reimbursement for their moving expenses to the critical teacher shortage area from the State Board of Education. The State Board of Education shall promulgate rules and regulations necessary for the administration of the relocation expense reimbursement component of the University Assisted Teacher Recruitment and Retention Grant Program.

(6) Subject to the availability of funds, the State Board of Education may provide for professional development and support services as may be necessary for the retention of teachers participating in the program in those geographical areas of the state where there exists a critical shortage of teachers.

(7) Any person participating in the program who fails to complete a program of study that will enable that person to obtain a Master of Education degree or Educational Specialist degree shall become liable immediately to the State Board of Education for the sum of all awards made to that person under the program, plus interest accruing at the current Stafford Loan rate at the time the person abrogates his participation in the program.

(8) As a condition for participation in the program, a teacher shall agree to employment as a licensed teacher in a school district located in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, for a period of not less than three (3) years, which shall include those years of service rendered while obtaining the Master of Education degree or Educational Specialist degree. However, for any person who obtained a baccalaureate degree in education with a financial scholarship under the Critical Needs Teacher Scholarship Program and who entered the University Assisted Teacher Recruitment and Retention Grant Program before rendering service as a teacher, the period of employment for the purposes of this subsection shall be two (2) years, in addition to the employment commitment required under the Critical Needs Teacher Scholarship Program. Service rendered by a participant as a licensed teacher in a school district in a geographical critical teacher shortage area before that teacher becomes a participant in the program may not be considered to fulfill the employment commitment required under this subsection. Any person failing to comply with this employment commitment in any required school

year shall immediately be in breach of contract and become liable immediately to the State Department of Education for the sum of all scholarships awarded and relocation expenses granted to that person, less one-third (⅓) of the amount of that sum for each year that service was rendered, or for those persons whose required period of employment is two (2) years, less one-half (½) of the amount of that sum for each year that service was rendered, plus interest accruing at the current Stafford Loan rate at the time the breach occurs, except in the case of a deferral for cause by the State Board of Education when there is no employment position immediately available upon the teacher's obtaining of the Master of Education degree or Educational Specialist degree. After the period of such deferral, the person shall begin or resume the required teaching duties or shall become liable to the board under this subsection. If a claim for repayment under this subsection is placed in the hands of an attorney for collection after default, then the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(9) All funds received by the State Department of Education from the repayment of scholarship awards and relocation expenses by program participants shall be deposited in the Mississippi Critical Teacher Shortage Fund.

(10) The State Board of Education shall promulgate rules and regulations necessary for the proper administration of the University Assisted Teacher Recruitment and Retention Grant Program.

This section shall stand repealed on July 1, 2020.

SOURCES: Laws, 1998, ch. 544, § 13; Laws, 2000, ch. 334, § 1; Laws, 2014, ch. 538, § 49, eff from and after July 1, 2014.

Editor's Note — Laws of 1998, ch. 544, which enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1, may be cited as the "Mississippi Critical Teacher Shortage Act of 1998" pursuant to Section 37-159-1.

The preamble to Laws of 1998, ch. 544, provides in pertinent part:

"WHEREAS, in many rural areas and communities in the State of Mississippi, particularly in the Mississippi Delta, there exists a critical shortage of qualified teachers that continues to grow at an increasing rate as the number of teachers in those areas who are eligible for retirement escalates while fewer college students aspire to a career in teaching; and

"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

Amendment Notes — The 2014 amendment added the last paragraph.

Cross References — State Board of Education, see Miss. Const. Art. 8, § 203 and Code §§ 37-1-1 et seq.

Mississippi Critical Teacher Shortage Fund, see § 37-159-17.

§ 37-159-11. Mississippi Employer-Assisted Housing Teacher Program; service to geographical areas short of teachers; eligibility for participation; failure to comply with commitment [Repealed effective July 1, 2020].

(1) There is established the Mississippi Employer-Assisted Housing Teacher Program, which shall be a special home loan program for eligible licensed teachers who render service to the state in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education. The home loan program shall be administered by the State Department of Education in conjunction with the Federal National Mortgage Association (Fannie Mae). The department may contract with one or more public or private entities to provide assistance in implementing and administering the program. The State Board of Education shall adopt rules and regulations regarding the implementation and administration of the program.

(2) Participation in the loan program shall be available to any licensed teacher who renders service in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education. Any person who receives a loan under the program shall be required to purchase a house and reside in a county in which the school district for which the teacher is rendering service, or any portion of the school district, is located. The maximum amount of a loan that may be made under the program to any person shall be Six Thousand Dollars ($6,000.00).

(3) Any loan made under the program to a person who actually renders service as a teacher in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, shall be converted to an interest-free grant on the basis of one (1) year's service for one-third (⅓) of the amount of the loan. Any person who does not render three (3) years' service as a teacher in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, shall be liable to the State Department of Education for one-third (⅓) of the amount of the loan for each year that he does not render such service, plus interest accruing at the current Stafford Loan rate at the time the person discontinues his service. If a claim for repayment under this subsection is placed in the hands of an attorney for collection, the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(4) All funds received by the State Department of Education as repayment of loans by program participants shall be deposited in the Mississippi Critical Teacher Shortage Fund.

This section shall stand repealed July 1, 2020.

SOURCES: Laws, 1998, ch. 544, § 14; Laws, 2000, ch. 321, § 1; Laws, 2001, ch. 543, § 1; Laws, 2004, ch. 369, § 1; reenacted and amended, Laws, 2009, ch. 345, § 30; Laws, 2014, ch. 538, § 50, eff from and after July 1, 2014.

Editor's Note — Laws, 1998, ch. 544, which enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1, may be cited as the "Mississippi Critical Teacher Shortage Act of 1998" pursuant to Section 37-159-1.

The preamble to Laws, 1998, ch. 544, provides in pertinent part:

"WHEREAS, in many rural areas and communities in the State of Mississippi, particularly in the Mississippi Delta, there exists a critical shortage of qualified teachers that continues to grow at an increasing rate as the number of teachers in those areas who are eligible for retirement escalates while fewer college students aspire to a career in teaching; and

"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

Amendment Notes — The 2014 amendment added the last paragraph.

Cross References — State Board of Education, see Miss. Const. Art. 8, § 203 and Code §§ 37-1-1 et seq.

Mississippi Critical Teacher Shortage Fund, see § 37-159-17.

§ 37-159-13. Construction of rental housing; West Tallahatchie school district; selection of developer; funding; liability; operation; priority for residence [Repealed effective July 1, 2020].

(1) There is established a pilot program to provide for the construction of rental housing units for teachers in the West Tallahatchie School District, which pilot program shall be administered by the State Department of Education. The department may contract with one or more public or private entities to provide assistance in implementing and administering the program. The State Board of Education shall adopt rules and regulations regarding the implementation and administration of the program.

(2) The West Tallahatchie School District shall receive proposals from developers for the construction of the rental housing units, and submit its recommendation to the State Department of Education about which developer should construct the units. The department shall make the final determination about the developer that will construct the units.

(3) After selection of the developer, the department shall loan the developer not more than Two Hundred Thousand Dollars ($200,000.00) for construction of the units. The interest rate on the loan shall be equal to one percent (1%) below the discount rate at the Federal Reserve Bank in the Federal Reserve district in which the school district is located, and the loan shall be repaid in not more than fifteen (15) years, as determined by the department. All funds received by the department as repayment of the principal and interest of the loan shall be deposited in the Mississippi Critical Teacher Shortage Fund. If a claim against the developer for repayment is placed in the

hands of an attorney for collection, the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(4) The developer shall operate the rental housing units. For a period of ten (10) years or until such time as the loan to the developer is repaid, whichever is longer, the priority for residence in the units shall be given first to teachers employed by the school district, then to other licensed school district employees, and then to any other school district employees.

This section shall stand repealed July 1, 2020.

SOURCES: Laws, 1998, ch. 544, § 15; Laws, 2014, ch. 538, § 51, eff from and after July 1, 2014.

Editor's Note — Laws of 1998, ch. 544, which enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1, may be cited as the "Mississippi Critical Teacher Shortage Act of 1998" pursuant to Section 37-159-1.

The preamble to Laws of 1998, ch. 544, provides in pertinent part:

"WHEREAS, in many rural areas and communities in the State of Mississippi, particularly in the Mississippi Delta, there exists a critical shortage of qualified teachers that continues to grow at an increasing rate as the number of teachers in those areas who are eligible for retirement escalates while fewer college students aspire to a career in teaching; and

"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

Amendment Notes — The 2014 amendment added the last paragraph.

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The State Board of Education may find that a 30-year amortization with a balloon payment at the end of 15 years satisfies the required repayment terms provided in subsection (3) of this section and may approve repayment terms containing such arrangement. Thompson, March 26, 1999, A.G. Op. #99-0153.

The State Board of Education may determine that the construction, with private funds, of additional housing to be governed by subsection (4) of this section would constitute valuable consideration and may therefore agree to release unused portions of the tract from the lien of its deed of trust, in return for such construction and additional consideration of nominal or no value. Thompson, March 26, 1999, A.G. Op. #99-0153.

The State Board of Education may agree that a developer may fill a vacancy with an applicant outside the priority of subsection (4) of this section if the developer and the school district have entered into an agreement wherein the school district has a fixed amount of time in which to fill any vacancy with a school district in order of priority; if the vacancy is not filled within that number of days by a school district employee, the developer may fill the vacancy with an applicant from outside the priority list and may find that seven days is a reasonable amount of time therefor. Thompson, March 26, 1999, A.G. Op. #99-0153.

§ 37-159-15. Repealed.

Repealed by Laws, 2011, ch. 442, § 20, effective July 1, 2011.

§ 37-159-15. [Laws, 1998, ch. 544, § 16, eff from and after passage (approved April 13, 1998).]

Editor's Note — Former § 37-159-15 required an annual assessment of the impact of the teacher recruitment incentive programs.

§ 37-159-17. Mississippi Critical Teacher Shortage Fund; establishment; deposit and use of funds [Repealed effective July 1, 2020].

There is established in the State Treasury a special fund to be designated the "Mississippi Critical Teacher Shortage Fund," into which shall be deposited those funds appropriated by the Legislature, and any other funds that may be made available, for the purpose of implementing the programs established under Sections 37-159-5, 37-9-77, 37-3-91 and 37-159-9 through 37-159-13. Money in the fund at the end of a fiscal year shall not lapse into the General Fund, and interest earned on any amounts deposited into the fund shall be credited to the special fund.

This section shall stand repealed on July 1, 2020.

SOURCES: Laws, 1998, ch. 544, § 17; Laws, 2012, ch. 315, § 2; Laws, 2014, ch. 538, § 52, eff from and after July 1, 2014.

Editor's Note — Laws of 1998, ch. 544, which enacted the provisions of Sections 37-3-89, 37-3-91, 37-101-29, 37-149-7, 37-151-10 and 37-159-1 through 37-159-17, and amended the provisions of Sections 37-9-77, 37-17-8, 37-143-11 [repealed] and 37-149-1, may be cited as the "Mississippi Critical Teacher Shortage Act of 1998" pursuant to Section 37-159-1.

The preamble to Laws of 1998, ch. 544, provides in pertinent part:

"WHEREAS, in many rural areas and communities in the State of Mississippi, particularly in the Mississippi Delta, there exists a critical shortage of qualified teachers that continues to grow at an increasing rate as the number of teachers in those areas who are eligible for retirement escalates while fewer college students aspire to a career in teaching; and

"WHEREAS, the absence of a qualified teacher in every classroom in the state contributes to overall lower test scores for the State of Mississippi and will negatively impact the state's work force of tomorrow, made of our children of today; and

"WHEREAS, it is the intent of the Legislature, in passing this act, to immediately reverse this teacher shortage trend by offering attractive incentives to qualified persons who pursue a profession in teaching and agree to serve in those communities wherein the greatest need for teachers exists, thereby enabling every child in the State of Mississippi to receive a quality education: NOW, THEREFORE,"

Amendment Notes — The 2012 amendment deleted "37-159-3" preceding "37-159-5" in the first sentence.

The 2014 amendment added the last paragraph.

MISSISSIPPI DYSLEXIA EDUCATION SCHOLARSHIP PROGRAM

SEC.
37-159-51 and 37-159-53. Repealed

§§ 37-159-51 and 37-159-53. Repealed.

Repealed by Laws of 2014, ch. 538, § 40, effective July 1, 2014.

§ 37-159-51. [Laws, 2012, ch. 562, § 1, eff from and after July 1, 2012.]

§ 37-159-53. [Laws, 2012, ch. 562, § 2; Laws, 2013, ch. 429, § 1, eff from and after July 1, 2013.]

Editor's Note — Former § 37-159-51 established the Mississippi Dyslexia Education Scholarship Program. For present similar provisions, see § 37-106-71.

Former § 37-159-53 related to the administration of the Mississippi Dyslexia Education Scholarship Program. For present similar provisions, see § 37-106-71.

CHAPTER 160

Teach for America Act

Sec.	
37-160-1.	Short title; purpose.
37-160-3.	Definitions.
37-160-5.	Award of grants to Teach For America-Delta to recruit new teachers; use of funds.
37-160-7.	Grantee to provide written status report; report contents.

§ 37-160-1. Short title; purpose.

(1) This chapter shall be known and may be cited as the "Teach for America Act."

(2) The following are the purposes of this chapter:

(a) To increase the number of highly accomplished recent college graduates teaching in school districts in geographical areas of the state which are economically challenged and in which there exists a critical shortage of teachers.

(b) To increase the number of recent college graduates teaching in the Teach For America partnering school districts on July 1, 2008, and to bring teachers from a nationally recruited corps of outstanding new teachers to additional communities in Mississippi by expanding the Teach For America program to additional school districts.

(c) To build a broader resource of talented and experienced future leaders in public education and education reform for the State of Mississippi.

(d) To authorize state funds to be used as matching funds by Teach For America, Inc., in order to raise additional funding to cover the programmatic costs of recruiting, selecting, training and providing appropriate support to the Teach For America teachers teaching in Mississippi.

SOURCES: Laws, 2008, ch. 461, § 1, eff from and after July 1, 2008.

§ 37-160-3. Definitions.

As used in this chapter, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Grantee" means the Mississippi office of Teach For America, Inc., known as "Teach For America Delta."

(b) "High need school district" means a school district experiencing a shortage of highly qualified teachers and includes, but is not necessarily limited to, those school districts in a geographical area of the state designated by the State Board of Education as having a critical shortage of teachers under the Mississippi Critical Teacher Shortage Act of 1998 (Sections 37-159-1 through 37-159-17).

SOURCES: Laws, 2008, ch. 461, § 2, eff from and after July 1, 2008.

§ 37-160-5. Award of grants to Teach For America-Delta to recruit new teachers; use of funds.

(1) The State Superintendent of Public Education may award annually a grant or grants to Teach For America Delta for the purpose of recruiting to Mississippi outstanding new teachers who commit to teach no less than two (2) years in an underserved community in the state. Each year, the Legislature may appropriate to the State Department of Education an amount that may be necessary for making a grant or grants under this section.

(2) In awarding grants to Teach For America Delta, the superintendent shall enter into an agreement with the grantee under which the grantee agrees to use the grant funds to raise additional funds for the following purposes:

(a) To provide highly qualified teachers to high need school districts in the state;

(b) To pay the costs of recruiting, selecting, training and supporting new teachers; and

(c) To serve the educational needs of a substantial number and percentage of underserved students.

(3) The grantee shall use all funds received under this chapter to support activities related directly to the recruitment, selection, training and support of teachers. Specifically, grant funds shall be used to carry out each of the following activities:

(a) Recruiting and selecting Teach For America teachers through a highly selective national process.

(b) Providing preservice training to the Teach For America teachers through a rigorous summer institute that includes hands-on teaching experience and significant exposure to education coursework and theory.

(c) Placing the Teach For America teachers in schools and positions designated by officials in those school districts participating in programs under the Mississippi Critical Teacher Shortage Act of 1998 as high need placements serving underserved students.

(d) Providing ongoing professional development activities for each Teach For America teacher's first two (2) years in the classroom, including regular classroom observations and critical feedback, and ongoing training and support that leads to a standard five-year teaching license.

SOURCES: Laws, 2008, ch. 461, § 3, eff from and after July 1, 2008.

Cross References — Mississippi Critical Teacher Shortage Act of 1998, see §§ 37-159-1 et seq.

§ 37-160-7. Grantee to provide written status report; report contents.

Before December 1 of each year, the grantee shall submit a written report to the State Superintendent of Public Education on the status of Teach For America Delta. The report must include no less than the following:

(a) Data on the Teach For America teachers under contract and teaching in a geographical critical teacher shortage area, including a list of those school districts that are partnering with Teach For America through funds provided under this chapter and the grades or subjects that are being taught by Teach For America teachers in those school districts;

(b) Data on each Teach For America teacher relating to the background of the teacher and the teacher's training and professional development;

(c) The retention rate of Teach For America teachers in Mississippi;

(d) The results of an externally conducted biannual analysis of the satisfaction rate of local principals regarding the quality and effect of Teach For America teachers in the principals' respective schools; and

(e) Any other information requested for the report by the State Superintendent of Public Education.

SOURCES: Laws, 2008, ch. 461, § 4, eff from and after July 1, 2008.

CHAPTER 161

Mississippi Education Reform Act of 2006

Sec.
37-161-1. Short title; findings and determinations.
37-161-3. Legislative findings and declarations; Mississippi Virtual Public School Program created; definitions; necessary instructional materials and access to necessary technology provided to students enrolled in virtual school; qualifications of teachers; enrollment to be free of charge to students.
37-161-5. Creation of Lifelong Learning Commission; composition; duties; annual report; meetings.
37-161-7. Wellness curriculum to be developed by State Board of Education; board shall adopt implementation rules and regulations.

§ 37-161-1. Short title; findings and determinations.

(1) This act [Laws of 2006, Chapter 504] shall be known and may be referred to as the "Mississippi Education Reform Act of 2006."

(2) The Legislature finds and determines that the quality and accountability of public education and its effect upon the social, cultural and economic enhancement of the people of Mississippi is a matter of public policy, the object of which is the education and performance of its children and youth.

SOURCES: Laws, 2006, ch. 504, § 1; reenacted without change, Laws, 2009, ch. 345, § 31, eff from and after June 30, 2009.

Editor's Note — Former Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

§ 37-161-3. Legislative findings and declarations; Mississippi Virtual Public School Program created; definitions; necessary instructional materials and access to necessary technology provided to students enrolled in virtual school; qualifications of teachers; enrollment to be free of charge to students.

(1) The Legislature finds and declares the following:

(a) Meeting the educational needs of children in our state's schools is of the greatest importance to the future welfare of the State of Mississippi;

(b) Closing the achievement gap between high-performing students, including the achievement gap among at-risk students, is a significant and present challenge;

(c) Providing a broader range of educational options to parents and utilizing existing resources, along with technology, may help students in the state improve their academic achievement; and

(d) Many of the state's school districts currently lack the capacity to provide other public school choices for students whose schools are low performing.

(2) There is created the Mississippi Virtual Public School Program, which is the responsibility of the State Department of Education. It is the intent of the Legislature that the Mississippi Virtual Public School established under this section provides Mississippi families with an alternative choice to access additional educational resources in an effort to improve academic achievement. The Mississippi Virtual Public School must be recognized as a public school and provide equitable treatment and resources as are other public schools in the state. Private providers, overseen by the State Department of Education, may be selected by the State Board of Education to administer, manage or operate virtual school programs in this state, including the total operation of the Mississippi Virtual Public School Program. Any private provider chosen to provide services under the provisions of this subsection shall be chosen through a competitive RFP process.

(3) Nothing in this section may be interpreted as precluding the use of computer- and Internet-based instruction for students in a virtual or remote setting utilizing the Mississippi Virtual Public School.

(4) As used in this section, the following words and phrases have the meanings respectively ascribed unless the context clearly requires otherwise:

(a) "Mississippi Virtual Public School" means a public school in which the state uses technology in order to deliver instruction to students via the Internet in a virtual or remote setting.

(b) "Sponsor" means the public school district is responsible for the academic process for each student including, but not limited to, enrollment, awarding of credit and monitoring progress.

(5)(a) The State Board of Education shall establish the Mississippi Virtual Public School beginning in school year 2006-2007.

(b) Students who enroll in the Mississippi Virtual Public School may reside anywhere in the State of Mississippi.

(6) Subject to appropriation, the Mississippi Virtual Public School shall provide to each student enrolled in the school all necessary instructional materials. Subject to appropriation, the sponsored school must ensure that each student is provided access to the necessary technology, such as a computer and printer, and to an Internet connection for school work purposes.

(7) The State Board of Education shall have approval authority for all coursework and policy of the Mississippi Virtual Public School.

(8) Each teacher employed by or participating in the delivery of instruction through the Mississippi Virtual Public School must meet all qualifications for licensure in the State of Mississippi.

(9) Any student who meets state residency requirements may enroll in the Mississippi Virtual Public School.

(10) Enrollment in the Mississippi Virtual Public School must be free of charge to students. The costs associated with the operations of the virtual school must be shared by the State Department of Education, subject to appropriation, and/or the local school districts.

SOURCES: Laws, 2006, ch. 346, § 1; Laws, 2006, ch. 504, § 10; reenacted without change, Laws, 2009, ch. 345, § 32; Laws, 2010, ch. 330, § 1; Laws, 2011, ch. 442, § 19, eff from and after July 1, 2011.

Editor's Note — Laws of 2006, ch. 346, § 1, effective from and after July 1, 2006 (approved March 13, 2006), contained similar language to this section. The version contained in Laws of 2006, ch. 504, effective from and after July 1, 2006 (approved March 28, 2006), is printed here because it is the latest expression of legislative intent, as determined by the Co-counsel of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation.

Former Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

§ 37-161-5. Creation of Lifelong Learning Commission; composition; duties; annual report; meetings.

(1) There is established a commission to be known as the "Lifelong Learning Commission."

(2) The commission shall consist of four (4) members, who shall serve ex officio, as follows:

(a) The Governor of the State of Mississippi, who shall serve as chairman;

(b) The State Superintendent of Public Education;

(c) The Commissioner of the Mississippi Community College Board; and

(d) The Commissioner of Higher Education.

(3) The duties of the Lifelong Learning Commission shall include, but not necessarily be limited to, the following:

(a) To assess the dropout crisis in Mississippi and recommend action steps to address it;

(b) To create a set of common definitions for graduation and dropout rates which can be used to compare the commission's progress relative to other states;

(c) To facilitate agreements that will make the Mississippi high school experience more meaningful;

(d) To encourage more rigor and relevance in the high school experience;

(e) To facilitate the transferability of education from secondary to postsecondary institutions;

(f) To raise state awareness on the need for improving Mississippi's high schools;

(g) To develop a series of best practices policy actions that state policymakers and legislators can implement to achieve system-wide high school reform; and

(h) To convene town hall meetings around the state, when the commission determines necessary, where students, teachers, administrators and parents can discuss high school, the senior year and impediments to greater success.

(4) The commission may prepare an annual report for the consideration of the Chairmen of the House and Senate Education and Universities and Colleges Committees pertaining to the information gathered in the performance of its duties.

(5) The commission members shall meet at those times and places deemed necessary by the commission. The commission may use any available resources to fulfill its mission.

SOURCES: Laws, 2006, ch. 346, § 4; Laws, 2006, ch. 504, § 13; reenacted without change, Laws, 2009, ch. 345, § 33; Laws, 2014, ch. 397, § 54, eff from and after July 1, 2014.

Editor's Note — Laws of 2006, ch. 346, § 4, effective from and after July 1, 2006 (approved March 13, 2006), contained identical language to this section. The version contained in Laws of 2006, ch. 504, effective from and after July 1, 2006 (approved March 28, 2006), is printed here because it is the latest expression of legislative intent, as determined by the Co-counsel of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation.

Former Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in (2)(c).

§ 37-161-7. Wellness curriculum to be developed by State Board of Education; board shall adopt implementation rules and regulations.

The State Board of Education shall develop a wellness curriculum for use by each school district and the board shall establish rules and regulations to be followed by the districts whereby the districts shall implement the curriculum. Such wellness curriculum shall include educating students about the value of exercise, proper diet and abstinence from use of tobacco and alcohol. The state board shall also adopt regulations for districts' compliance concerning what products may be sold in vending machines on campus and when they can be sold.

SOURCES: Laws, 2006, ch. 504, § 18; reenacted without change, Laws, 2009, ch. 345, § 34, eff from and after June 30, 2009.

Editor's Note — Former Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

CHAPTER 163

Education Achievement Council

Sec.
37-163-1. Education Achievement council created; composition; duties and responsibilities; annual report; compensation.

§ 37-163-1. Education Achievement council created; composition; duties and responsibilities; annual report; compensation.

(1) There is created an Education Achievement Council whose purpose is to sustain attention to the state's goal of increasing the educational attainment and skill levels of the state's working-age population benchmark to the national average by 2025.

(2) The Education Achievement Council shall consist of twenty-three (23) members:

(a) The Chairmen of the House and Senate Universities and Colleges Committees;

(b) The Chairmen of the House and Senate Education Committees;

(c) A representative of the Governor's office appointed by the Governor;

(d) Two (2) members of the Board of Trustees of State Institutions of Higher Learning;

(e) The Chairman of the State Board of Education, or his designee;

(f) The Chairman and one (1) member of the Mississippi Community College Board, or his designee;

(g) The State Superintendent of Public Education, or his designee;

(h) The Commissioner of Higher Education, or his designee;

(i) The Executive Director of the Mississippi Community College Board, or his designee;

(j) Three (3) presidents of state institutions of higher learning appointed by the Board of Trustees of State Institutions of Higher Learning, one (1) of which must be from a historically black institution of higher learning;

(k) Three (3) community and junior college presidents appointed by the Mississippi Community College Board;

(*l*) The Executive Director of the Mississippi Department of Mental Health, or his designee;

(m) The President and Chief Executive Officer of the Mississippi Economic Council; and

(n) The Chairmen of the House and Senate Appropriation s Committees, or their designees.

(3) The Education Achievement Council shall work collaboratively with the Board of Trustees of State Institutions of Higher Learning and the Mississippi Community College Board to achieve the state's goal, and shall not displace any governing or coordinating responsibilities.

(4) The Education Achievement Council shall:

(a) Establish the education achievement goals for the state;

(b) Develop and prescribe appropriate planning processes;

(c) Establish appropriate benchmarks to measure progress, including degrees awarded per one hundred (100) full-time equivalent (FTE) students calculated using completed credit hours; conduct the necessary studies and analysis;

(d) Research and develop a new funding mechanism for public community colleges and state institutions of higher learning based upon productivity goals and accomplishments as well as enrollment, and submit a report thereon with necessary legislation to the Governor and the appropriate committees of the Legislature on or before November 1, 2012, for consideration at the 2013 Regular Session; and

(e) Contract for any professional services that it deems necessary to complete its work.

(5) The Education Achievement Council shall monitor and report on the state's progress toward these education achievement goals by preparing an annual state report card compiled from the annual reports prepared and submitted by each state institution of higher learning and community and junior college in the state. The state's annual report shall be made available on the Education Achievement Council website, as well as the websites of the Board of Trustees of State Institutions of Higher Learning and the Mississippi Community College Board.

(6) Each state institution of higher learning and community and junior college shall be required to develop and publish an annual report as prescribed by the Education Achievement Council. By November 1 of each year, as prescribed by the Education Achievement Council, each institution's annual report shall be published in a newspaper having general circulation in the county and posted on the institution's website in printable form. The public notice shall include information on the report's availability on the institution's website, with the website address, and the locations where a copy of the report may be obtained.

(7) Within sixty (60) days of March 24, 2010, the Education Achievement Council shall meet and organize by selecting from its membership a chairman, vice chairman and secretary each for a one-year term of office. A majority of the membership will constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative majority vote shall be required. All members must be notified in writing of all meetings at least five (5) days before the date on which a meeting is scheduled.

(8) The Legislature may appropriate funds to the Board of Trustees of State Institutions of Higher Learning for the administrative, contractual costs, travel and other expenses of the Education Achievement Council.

(9) Members of the Education Achievement Council who are not legislators, state officials or state employees may be compensated at the per diem rate authorized by Section 25-3-41 for mileage and actual expense incurred in the performance of their duties. Legislative members of the Education Achieve-

ment Council may be paid from the contingent expense funds of their respective houses, but only with the specific approval of the Senate Rules Committee or House Management Committee; however, no per diem or expense is authorized for attending meetings of the Education Achievement Council when the Legislature is in session. Nonlegislative members may be paid from any funds made available for that purpose.

(10) The Commissioner of Higher Education, or his designee, shall serve as the principal staff to support the Education Achievement Council. The Commissioner of Higher Education and the Executive Director of the Mississippi Community College Board shall provide appropriate staff to support the work of the Education Achievement Council.

SOURCES: Laws, 2010, ch. 424, § 1; Laws, 2011, ch. 377, § 1; Laws, 2014, ch. 397, § 55, eff from and after July 1, 2014.

Editor's Note — Laws of 2009, ch. 489, § 2 provides:

"(1) It is the intent of the Legislature and the expectation of each institution of higher learning and community and junior colleges in the state that all students in such institutions receive a quality education and graduate from such institutions. The Legislature also recognizes that annual performance reports show that a significant number of students underperform and fail to meet their goal of graduation.

"(2) To assist the Legislature in shaping public policy to improve student outcomes and educational opportunities for all students in such institutions of higher learning, there is established a task force to study and report on the graduation rates in the state institutions of higher learning and junior and community colleges.

"(3) The task force shall be composed of the following thirteen (13) members:

"(a) The Chairmen of the House and Senate Universities and Colleges Committees;

"(b) The Chairmen of the House and Senate Education Committees;

"(c) The State Superintendent of Public Education or his designee;

"(d) The Commissioner of Higher Education or his designee;

"(e) The Director of the State Board for Community and Junior Colleges or his designee;

"(f) The Chairman of the Board of Trustees of State Institutions of Higher Learning, the State Board for Community and Junior Colleges and the State Board of Education;

"(g) A representative of the Governor's Office appointed by the Governor;

"(h) A president of one (1) comprehensive university appointed by the Board of Trustees of State Institutions of Higher Learning; and

"(i) A president of one (1) historical black university appointed by the Board of Trustees of State Institutions of Higher Learning.

"(4) Appointments to the task force must be made within thirty (30) days after the effective date of this act. Within fifteen (15) days after the expiration of the period for making appointments, on a day to be designated by the Commissioner of Higher Education, the task force shall meet and organize by selecting from its membership a chairman and a vice chairman. The vice chairman also must serve as secretary and be responsible for keeping all records of the task force. A majority of the membership of the task force shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the task force shall be required. All members must be notified in writing of all meetings at least five (5) days before the date on which a meeting of the task force is scheduled.

"(5) The task force may contract for any professional services that it deems necessary to complete its work and shall tour any universities and community or junior colleges as it deems necessary. The Legislature shall appropriate sufficient funding to the Board of Trustees of State Institutions of Higher Learning for the contractual costs and travel associated with attending meetings and for the on-site visits to universities and community or junior colleges.

"(6) Members of the task force who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by Section 25-3-69 and reimbursed in accordance with Section 25-3-41 for mileage and actual expenses incurred in the performance of their duties. Legislative members of the task force shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the task force may be paid while the Legislature is in session. Task force members may not incur per diem, travel or other expenses unless previously authorized by vote at a meeting of the task force, which action must be recorded in the official minutes of the meeting. Nonlegislative members may be paid from any funds made available to the task force for that purpose.

"(7) The task force shall compile data, study and report on measures that may be taken to improve graduation rates in the universities, community colleges and junior colleges.

"(8) The Commissioner of Higher Education shall provide appropriate staff to assist the task force with carrying out its duties. Before December 31, 2009, the task force shall submit to the Legislature and the Governor a written report of its findings and recommendations on measures to improve graduation rates in universities, community colleges and junior colleges. Upon presentation of its report, the task force shall be dissolved."

Laws of 2010, ch. 424, preamble provides:

"WHEREAS, it is the intent of the Legislature and the expectation of the Board of Trustees for State Institutions of Higher Learning and the State Board for Community and Junior Colleges, as well as each institution of higher learning and community and junior college in the state that all students in those institutions receive a quality education and graduate from those institutions; and

"WHEREAS, the Mississippi Legislature, during the 2009 Regular Session, established the Graduation Rate Task Force to assist the Legislature in shaping public policy to improve student outcomes and educational opportunities for all students in the institutions of higher learning by focusing on the means and methods to improve graduation rates and numbers; and

"WHEREAS, the Graduation Rate Task Force completed its work on December 16, 2009, and submitted its report, recommending the need to increase the educational attainment and skill levels of the state's working-age population benchmark to the national average by 2025 to prepare a globally competitive workforce, enhance the state's future economy, and improve the quality of life for the state's citizens; and

"WHEREAS, the Graduation Rate Task Force further recommended establishing the Education Attainment Council to sustain attention by leading this agenda in partnership with the governing and coordinating roles of the Board of Trustees of State Institutions of Higher Learning and the State Board for Community and Junior Colleges; and

"WHEREAS, the Graduation Rate Task Force identified several key components of this agenda to include: the alignment of K-12 and higher education expectations for college-level learning; teacher preparation; reviewing admissions requirements and developmental education; implementation of a longitudinal data system; revising and strengthening transfer and articulation processes and policies; creating incentives for regional collaboration to ensure more students get through the system to higher levels of achievement; improving academic advisement at state institutions of higher learning; redesigning student financial aid; aligning financing policy with these long-term goals; and improving student recruitment, retention, persistence and completion; NOW, THEREFORE,"

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in (2)(f), (2)(i), (2)(k), (3), (5), and (10).

Cross References — State agencies and public officials providing information about the agency or office to the public on a website are required to regularly review and update that information, see § 25-1-117.

CHAPTER 165

Conversion Charter School Act of 2010

Sec.
37-165-1 through 37-165-27. Repealed

§§ 37-165-1 through 37-165-27. Repealed.

Repealed by Laws of 2013, ch. 497, § 92, eff from and after July 1, 2013.
§ 37-165-1. [Laws, 2010, ch. 540, § 4, eff from and after July 1, 2010.]
§ 37-165-3. [Laws, 2010, ch. 540, § 5, eff from and after July 1, 2010.]
§ 37-165-5. [Laws, 2010, ch. 540, § 6, eff from and after July 1, 2010.]
§ 37-165-7. [Laws, 2010, ch. 540, § 7, eff from and after July 1, 2010.]
§ 37-165-9. [Laws, 2010, ch. 540, § 8, eff from and after July 1, 2010.]
§ 37-165-11. [Laws, 2010, ch. 540, § 9, eff from and after July 1, 2010.]
§ 37-165-13. [Laws, 2010, ch. 540, § 10, eff from and after July 1, 2010.]
§ 37-165-15. [Laws, 2010, ch. 540, § 11, eff from and after July 1, 2010.]
§ 37-165-17. [Laws, 2010, ch. 540, § 12, eff from and after July 1, 2010.]
§ 37-165-19. [Laws, 2010, ch. 540, § 13, eff from and after July 1, 2010.]
§ 37-165-21. [Laws, 2010, ch. 540, § 14, eff from and after July 1, 2010.]
§ 37-165-23. [Laws, 2010, ch. 540, § 15, eff from and after July 1, 2010.]
§ 37-165-25. [Laws, 2010, ch. 540, § 16, eff from and after July 1, 2010.]
§ 37-165-27. [Laws, 2010, ch. 540, § 17, eff from and after July 1, 2010.]

Editor's Note — Former § 37-165-1 provided the short title for the chapter.

Former § 37-165-3 provided the legislative intent.

Former § 37-165-5 provided the definitions of terms used in the chapter.

Former § 37-165-7 related to chapter applicability, the procedure and process for converting a public school to a conversion charter school, conversion plan contents and powers and duties of the local management board.

Former § 37-165-9 provided immunity from civil and criminal liability.

Former § 37-165-11 related to the timing of conversion petitions and the approval or denial process.

Former § 37-165-13 provided that a public school converted to a conversion charter school would continue to be considered a public school for certain funding and service purposes.

Former § 37-165-15 provided the term of contract for a conversion charter school and a process for removing a school from conversion charter school status.

Former § 37-165-17 provided that employees of a conversion charter school would be considered employees of local school districts for the purpose of receiving certain benefits.

Former § 37-165-19 placed a limit on the number of conversion charter schools allowed per congressional district.

Former § 37-165-21 prohibited unlawful reprisal against school district employees for direct or indirect involvement in a petition to convert a public school to a conversion charter school.

Former § 37-165-23 related to the applicability of the Education Employment Procedures Law to employees of schools converted to conversion charter schools.

Former § 37-165-25 related to sources of funding for public schools converted to conversion charter schools.

Former § 37-165-27 provided that §§ 37-167-1, 37-9-103 and 37-165-1 through 37-165-27 were to stand repealed on July 1, 2016.

CHAPTER 167

New Start School Program

SEC.
37-167-1. Applicability; definitions; New Start School Program established; notice to school employees and public of potential transformation of failing public school to new start school; adoption of rules and regulations; limitation of travel by superintendent and local school board under certain circumstances.

§ 37-167-1. Applicability; definitions; New Start School Program established; notice to school employees and public of potential transformation of failing public school to new start school; adoption of rules and regulations; limitation of travel by superintendent and local school board under certain circumstances.

(1) This section applies only to those public schools in the State of Mississippi which, during each of two (2) consecutive school years, are considered failing, as determined by the State Department of Education.

For purposes of this section, the term "new start school" means the successor school to a public school in the State of Mississippi which, during each of two (2) consecutive school years, is considered failing, as determined by the State Department of Education.

(2) There is established the New Start School Program for the purpose of transforming certain failing schools into quality educational options. Under the program, a new start school must be established in each public school that, during each of two (2) consecutive school years, is considered failing, as determined by the State Department of Education. The New Start School Program shall be under the administration of the Mississippi Recovery School District established under Section 37-17-6(12)(g).

(3)(a) Whenever a school is classified by the State Department of Education as a failing school in any school year, the Mississippi Recovery School District may provide written notice to the principal and each licensed (certified) and nonlicensed (classified) employee in the school that if the school receives a classification of failing for the succeeding school year, the school will be transformed into a new start school and the person's employment with the local school district shall be terminated. The notice shall be sent by the deputy superintendent, or his/her designee, responsible for the Mississippi Recovery School District as soon as practicable after the school is classified as failing.

(b) In addition to the notice required under paragraph (a) of this subsection (3), the local school board shall provide notice to the public in a newspaper of general circulation in the local county that if the school receives a classification of failing for the succeeding school year, the school will be transformed into a new start school. The advertisement may not be placed in any portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least five (5) days a week, unless the only newspaper in the county is published less than five (5) days a week, in such case, the advertisement shall be published once a week for three (3) consecutive weeks. The newspaper selected must be one of general interest, readership and circulation in all areas of the community.

(4) If a school that has been classified by the State Department of Education as a failing school in any school year, the Mississippi Recovery School District shall take such steps as may be necessary to facilitate the transformation of the failing school into a new start school. However, the school board of the local school district in which such a school is located may appeal to the State Board of Education for an additional year by submitting a comprehensive plan of improvement. The State Board of Education, in its discretion, may grant a one-year delay if it determines circumstances merit giving the school an additional year to achieve academic improvement. If, during the additional year, the school is classified again as a failing school, the Mississippi Recovery School District shall proceed to transform the failing school into a new start school.

(5) The State Board of Education shall adopt rules and regulations governing the transformation of failing schools into new start schools. The State Board of Education shall adopt rules and regulations that ensure that all students who were enrolled in, in attendance at and residing in the attendance zone of the public school before a new start school is instituted shall continue being eligible for and shall be deemed to be enrolled in the new start school without any required application process for the school. The rules and regulations must include, but not necessarily be limited to, the following provisions:

(a) The State Board of Education shall adopt rules and regulations to evaluate the performance of all licensed (certified) and nonlicensed (classified) employees in schools that are to be transformed into a new start school. The performance evaluation shall be conducted by the school district superintendent at the conclusion of the year in which a school is classified as failing. For all licensed (certified) employees the said rules and regulations shall use data, which shall include using the measures of student achievement, to assess the effectiveness of the educator. Any employee that receives an unsatisfactory evaluation may be terminated by the school district in which the school is located. Any employee terminated under the authority of this paragraph (a) shall not have a right to request a hearing by the school district or before a hearing officer or the State Board of Education.

(b) The deputy superintendent, or his/her designee, responsible for the Mississippi Recovery School District shall select a person to be employed as the principal of the new start school. Upon the request of the deputy superintendent or his/her designee, the superintendent of the school district in which the new start school is located shall enter into a contract with the person selected to be the principal in the same manner that contracts with principals are executed under Section 37-9-23. The principal of the new start school shall be an employee of the school district but shall report and be accountable directly to the deputy superintendent, or his/her designee, responsible for the Mississippi Recovery School District. All decisions impacting the academic, finance or any other managerial or operational functions of the new start school shall be subject to the review and approval of the Mississippi Recovery School District.

(c) The principal of the new start school, chosen by the deputy superintendent, or his/her designee, under paragraph (b) of this subsection (5), shall select and recommend for employment all licensed (certified) and nonlicensed (classified) personnel for the school in the same manner as provided for other schools. The principal shall endeavor to select only the most qualified applicants for employment in the new start school. Each teacher recommended for employment in the new start school must be approved by the Deputy Superintendent of the Mississippi Recovery School District, or his/her designee, before a contract for employment may be executed with the teacher.

(d) The school district superintendent shall develop professional development courses of training specifically designed for licensed (certified) and nonlicensed (classified) personnel in a new start school which shall be approved by the State Board of Education. All licensed (certified) and nonlicensed (classified) employees of the new start school shall be required to participate in the professional development courses.

(e) The principal of a new start school shall establish a P-16 council to assist in the transformation of the new start school. The P-16 council may be composed of parents, students, educators and other community members who are interested in the success of the new start school.

(f) When a new start school achieves an accountability rating of "C" or better for two (2) consecutive years, it shall cease to be a new start school and control shall be returned to the local school board.

(6) The 2013-2014 school year shall be the first year that a school's classification may be considered for purposes of this section, and a classification as a failing school in any year preceding the 2013-2014 school year may not be considered in determining if a particular school must be transformed into a new start school.

(7) If a local school district has one or more schools designated as failing in any school year, the superintendent of that local school district shall be restricted only to travel that is mandated by law or prescribed by the State Department of Education.

(8) If a local school district has one or more schools designated as failing in any school year, the members of the local school board of that school district shall be restricted only to travel that is mandated by law or prescribed by the State Department of Education, and shall have the amount of their per diem and/or yearly rate reduced by one-half (½).

(9) The local school district shall allocate funds for operations of any new start school in the same manner as funds are allocated to all other schools in

the district and shall provide administrative and support services to the new start schools in the same manner as such services are provided to other schools in the district.

(10) For all extracurricular purposes, any new start school shall remain a member of the local school district.

SOURCES: Laws, 2010, ch. 540, § 1; Laws, 2014, ch. 458, § 1, eff from and after passage (approved Mar. 31, 2014.)

Editor's Note — Former § 37-165-27 provided that this section would stand repealed on July 1, 2016. Section 37-165-27 was repealed by § 92 of Chapter 497, Laws of 2013, effective July 1, 2013.

Amendment Notes — The 2014 amendment rewrote the section to revise the definition and procedures for establishing a new start school program and to define the responsibilities of the Mississippi Recovery School District relative thereto.

CHAPTER 169

Mississippi Autism Advisory Committee

Sec.

37-169-1. Mississippi autism advisory committee created; purpose; report to Legislature.

37-169-3. Composition of advisory committee.

37-169-5. Duties of advisory committee; meetings; terms of members.

§ 37-169-1. Mississippi autism advisory committee created; purpose; report to Legislature.

The Mississippi Autism Advisory Committee is created to study, make recommendations and develop a strategic plan on how best to educate and train students with autism or ASD to maximize their potential productivity with the workforce. The committee shall meet at least six (6) times annually, and shall develop an annual plan. The report and plan of the committee, which shall be due annually on July 1, to the Mississippi Legislature, shall detail the progress and problems in creating meaningful progress in the areas of mental health, education, medical and employment for individuals with autism or ASD and their families.

SOURCES: Laws, 2011, ch. 370, § 1, eff from and after passage (approved Mar. 11, 2011.)

Editor's Note — "The preamble to ch. 370, Laws of 2011, effective from and after March 11, 2011, provides:

"WHEREAS, autism is a complex developmental disability that typically appears during the first three (3) years of life and is part of a group of disorders known as Autism Spectrum Disorders (ASD); and

"WHEREAS, as of the effective date of this act, at least one (1) in one hundred (100) individuals in the United States is diagnosed with autism, making it more common than the occurrences in our population of pediatric cancer, diabetes and AIDS combined; and

"WHEREAS, autism impairs a person's ability to communicate and relate to others; is associated with rigid routines and repetitive behaviors, such as obsessively arranging objects or following very specific routines; is four (4) times more likely to strike boys than girls; and occurs in all racial, ethnic and social groups; and

"WHEREAS, symptoms of the disability can range from very mild to quite severe, and autistic behaviors not only make life difficult for those individuals who suffer from the disability, but also make life hard for their families, health care providers and teachers; and

"WHEREAS, families coping with this devastating illness are struggling with the state's education and medical systems to adequately educate and treat their children; and

"WHEREAS, there is no known means to prevent the disability; there are indications that early intervention in an appropriate educational setting for at least two (2) years during the preschool years can result in significant improvements for many young children with the disorder; and

"WHEREAS, statistically, there is an extreme under identification of children with autism; and

"WHEREAS, employment opportunities for individuals with ASD need to be identified; and

"WHEREAS, the Mississippi Legislature recognizes that strategies for how to best identify, treat, educate, accommodate and employ individuals with autism and assist their families are urgently needed in our state; NOW, THEREFORE,"

§ 37-169-3. Composition of advisory committee.

Members of the advisory committee shall be composed of the following:

(a) Five (5) persons who are the parents of children with autism or ASD, with one (1) such person to be appointed by the Governor, two (2) to be appointed by the Lieutenant Governor, and two (2) to be appointed by the Speaker of the House;

(b) One (1) person who is a member of the governing body of a school district, to be appointed by the State Superintendent of Public Education;

(c) The State Superintendent of Public Education or the Associate Superintendent of the Office of Special Education;

(d) One (1) person who is the director of special education services in a school district, to be appointed by the State Superintendent of Public Education;

(e) Two (2) members of the Mississippi Special Education Advisory Committee, to be selected by the committee;

(f) Two (2) educators or behavioral specialists who work directly with students with ASD, to be appointed by the State Superintendent of Public Education;

(g) Two (2) Mississippi licensed psychologists who perform evaluation or consultation with Mississippi schools, to be appointed by the Mississippi Association of Psychology in the Schools;

(h) The project director of the Mississippi Parent Training and Information Center;

(i) Two (2) persons who are representatives of autism advocacy groups or professionals who work with the advocacy groups and provide services to individuals with autism or ASD, to be appointed by the Executive Director of the Department of Mental Health;

(j) One (1) person who is a representative of the State Department of Mental Health, to be appointed by the executive director of the department;

(k) One (1) person who is a representative of a private mental health facility who provides services to youth with ASD, to be appointed by the Executive Director of the State Department of Mental Health;

(*l*) One (1) person who is a representative of the University of Mississippi Medical Center and who provides medical or other services to individuals with autism or ASD, to be appointed by the Vice Chancellor of the University of Mississippi Medical Center;

(m) Two (2) persons who are working in private industry whose business has the potential to employ individuals with autism, to be appointed by the Governor;

(n) One (1) person who is a Transition Specialist, to be appointed by the State Superintendent of Public Education;

(o) One (1) representative of the T.K. Martin Center, to be appointed by the Director of the T.K. Martin Center;

(p) One (1) representative of the Mississippi Department of Rehabilitation Services;

(q) Two (2) persons who are licensed therapists, to be appointed by the President of the Mississippi Speech Language and Hearing Association;

(r) One (1) person who is a representative of the Mississippi Department of Insurance, to be appointed by the commissioner; and

(s) One (1) person who is a representative of the Mississippi Department of Human Services, to be appointed by the director of the department.

SOURCES: Laws, 2011, ch. 370, § 2, eff from and after passage (approved Mar. 11, 2011.)

§ 37-169-5. Duties of advisory committee; meetings; terms of members.

(1) The advisory committee shall:

(a) Review the recommendations of the Caring for Individuals with Autism Task Force of 2007;

(b) Evaluate, study and identify any and all current relevant information and make legislative recommendations regarding the development and implementation of a continuum of educational and medical services for individuals with autism or ASD; and

(c) File a report with those standing committees of the Mississippi Legislature and present the report to those state agencies having jurisdiction over specific recommendations of the task force, not later than July 1 of each year.

(2) The advisory committee shall hold its first meeting not later than April 1, 2011, with the date, time and location of the meeting to be designated by the Executive Director of the Department of Mental Health. At that first meeting, the advisory committee shall elect from among its membership a chairman, vice chairman and any other officers determined to be necessary, and shall set the date, time and location of its next meeting.

(3) The terms of advisory committee members shall run for two (2) years, concurrent with the term of members of the Mississippi Congressional Delegation elected to the United States House of Representatives.

(4) The State Department of Mental Health shall provide the staff and other support necessary for the Mississippi Autism Advisory Committee to perform its duties.

(5) Members of the advisory committee shall serve without compensation in the form of a per diem or any other expense for service on the committee.

SOURCES: Laws, 2011, ch. 370, § 3, eff from and after passage (approved Mar. 11, 2011.)

Editor's Note — "The preamble and § 1 of ch. 456, Laws of 2007, provide:

"WHEREAS, autism is a complex developmental disability that typically appears during the first three (3) years of life and is part of a group of disorders known as Autism Spectrum Disorders (ASD); and

"WHEREAS, as of the effective date of this act, at least one (1) in one hundred sixty-six (166) individuals in the United States is diagnosed with autism, making it more common than the occurrences in our population of pediatric cancer, diabetes, and AIDS combined; and

"WHEREAS, autism impairs a person's ability to communicate and relate to others; is associated with rigid routines and repetitive behaviors, such as obsessively arranging objects or following very specific routines; is four (4) times more likely to strike boys than girls; and occurs in all racial, ethnic and social groups; and

"WHEREAS, symptoms of the disability can range from very mild to quite severe, and autistic behaviors not only make life difficult for those individuals who suffer from the disability, but also make life hard for their families, health care providers and teachers; and

"WHEREAS, families coping with this devastating illness are searching for answers about its causes, diagnosis, prevention and treatment, and while there is no known means to prevent the disability, there are indications that early intervention in an appropriate educational setting for at least two (2) years during the preschool years can result in significant improvements for many young children with the disorder; and

"WHEREAS, the Mississippi Legislature recognizes that strategies for how to best identify, treat and accommodate the needs of individuals with autism and of their families are urgently needed in our state; NOW, THEREFORE,"

"SECTION 1. (1) The Caring for Mississippi Individuals with Autism Task Force is created to study and make recommendations to the Mississippi Legislature regarding the growing incidence of autism and Autism Spectrum Disorders (ASD), how to identify, treat and accommodate the needs of individuals with autism and ASD, and ways to improve the delivery and coordination of state services provided to individuals with autism and ASD. Members of the task force shall be composed of the following:

"(a) Three (3) persons who are the parents of children with autism or ASD, with one (1) such person to be appointed by the Governor, one (1) to be appointed by the Lieutenant Governor, and one (1) to be appointed by the Speaker of the House;

"(b) One (1) person who is a member of the governing body of a school district, to be appointed by the State Superintendent of Public Education;

"(c) One (1) person who represents the State Department of Education, to be appointed by the State Superintendent of Public Education;

"(d) One (1) person who is the director of special education services in a school district, to be appointed by the State Superintendent of Public Education;

"(e) One (1) person who is a representative of the State Department of Mental Health, to be appointed by the executive director of the department;

"(f) Three (3) persons who are representatives of the State Department of Mental Health who are from regions in the state that provide services to individuals with autism or ASD, to be appointed by the executive director of the department;

"(g) One (1) person who is a representative of the University of Mississippi Medical Center and who provides medical or other services to individuals with autism or ASD, to be appointed by the Vice Chancellor of the University of Mississippi Medical Center;

"(h) Two (2) persons who are Mississippi pediatricians engaged in the private practice of medicine and who provide treatment to individuals with autism or ASD, to be appointed by the Vice Chancellor of the University of Mississippi Medical Center;

"(i) Two (2) persons who are licensed therapists appointed by the President of the Mississippi Speech Language and Hearing Association.

"(2) The task force shall:

"(a) Review the best practices of other states with regard to educational, medical and early intervention services provided to individuals diagnosed with autism or ASD and identify the best practices of other states;

"(b) Review the standard of services provided by local Mississippi school districts and early intervention programs to individuals diagnosed with autism or ASD, identify any additional potential funding sources for school districts, and identify guidelines for measurable educational and instructional goals that can be used by members of the education community for serving children with autism or ASD;

"(c) Assess the medical availability of services currently provided for early screening, diagnosis and treatment of autism and ASD and provide recommendations for enhancing medical services;

"(d) Identify the role of higher education in developing a workforce in Mississippi possessing the skills necessary to assist individuals with autism or ASD in medical, educational, and vocational efforts or in providing additional services associated with autism or ASD;

"(e) Evaluate and identify any and all additional relevant information and make legislative recommendations regarding the development and implementation of a continuum of educational and medical services for individuals with autism or ASD; and

"(f) File a report with those standing committees of the Mississippi State Legislature and with those state agencies having jurisdiction over specific recommendations of the task force, not later than December 1, 2007.

"(3) The task force shall hold its first meeting not later than April 1, 2007, with the date, time and location of the meeting to be designated by the Governor. At that first meeting, the task force shall elect from among its membership a chairman, vice chairman and any other officers determined to be necessary, and shall set the date, time and location of its next meeting.

"(4) The State Department of Mental Health shall provide the staff and other support necessary for the Caring for Mississippi Individuals with Autism Task Force to perform its duties."

CHAPTER 171

Use of School Property by Public for Recreation and Sports

Sec.

37-171-1. Legislative findings and intent.

37-171-3. Definitions.

37-171-5. Use of school property during nonschool hours by public for recreation or sports authorized; liability.

37-171-7. Shared use agreements with community organizations and local governmental agencies.

§ 37-171-1. Legislative findings and intent.

(1) The Legislature finds the following:

(a) The Centers for Disease Control and Prevention has released studies documenting:

(i) Overweight and obese children experience the same risk factors that are associated with heart disease in adults, including high blood pressure, high cholesterol levels and Type 2 diabetes, once referred to as adult-onset diabetes;

(ii) Every year, an estimated three hundred thousand (300,000) people in America die because of diseases caused by being overweight and obese;

(iii) Studies have shown that up to eighty percent (80%) of overweight adolescents become overweight adults;

(iv) Fourteen percent (14%) of deaths from cancer in men and twenty percent (20%) of cancer deaths in women are because of being overweight and obese; and

(v) The annual economic impact in the United States from obesity on our health care system is estimated at One Hundred Forty-seven Billion Dollars ($147,000,000,000.00);

(b) According to the National Survey of Children's Health, Mississippi's childhood obesity rates are the highest in the nation;

(c) A recent study by a major insurance carrier stated that fifty percent (50%) of all Americans will have diabetes by the year 2020, costing the health care system approximately Three Trillion Three Hundred Fifty Billion Dollars ($3,350,000,000,000.00) if current trends in obesity are not abated; and

(d) According to the Journal of Nutrition Education and Behavior, adults with a household member who participated in a community garden consumed fruits and vegetables one and four-tenths (1-4⁄10) more times per day than those who did not participate, and they were three and one-half (3-½) times more likely to consume fruits and vegetables at least five (5) times daily.

(2) Therefore, the Legislature declares that the intent of this chapter is to make school property available to community members during nonschool hours for recreational activities in order to support active living, reduce

obesity, reduce health care costs associated with obesity, increase community safety, maximize community resources, and promote community support for schools.

SOURCES: Laws, 2012, ch. 475, § 1, eff from and after July 1, 2012.

§ 37-171-3. Definitions.

As used in this chapter, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Recreation" means any indoor or outdoor game or activity, either organized or unorganized, undertaken for exercise, relaxation, diversion, sport or pleasure.

(b) "School property" means all indoor or outdoor structures, facilities and land, whether owned, rented or leased by the school or school district.

(c) "Sport" means an activity requiring physical exertion and skill and which, by its nature and organization, is competitive and generally accepted as being a sport.

(d) "Shared use agreement" means a legal agreement that defines the rights and responsibilities of the school district and another organization or governmental agency for use of the school facilities for recreation or other purpose of importance to the community.

(e) "Local government entity" means any county, municipality, school district, public hospital or other political subdivision of the state.

SOURCES: Laws, 2012, ch. 475, § 2, eff from and after July 1, 2012.

§ 37-171-5. Use of school property during nonschool hours by public for recreation or sports authorized; liability.

(1) The school board of a school district may adopt a policy allowing the public use of indoor or outdoor school property during nonschool hours for purposes of recreation or sport. The school district must ensure that this use of school facilities by the public does not interfere with the use of those facilities for school purposes.

(2) School districts and school district employees may not be held liable for any claim resulting from a loss or injury arising from the use of indoor or outdoor school property or facilities made available for public recreation or sport. However, this chapter does not relieve a school district or school district employee of liability that otherwise exists for:

(a) Deliberate, willful or malicious injury to persons or property by a school district employee; or

(b) Injury resulting from a lack of proper maintenance or upkeep of a piece of equipment or facilities, unless the school district or school district employee had attempted to restrict access to a piece of equipment or facilities area in need of repair which would endanger a student during normal school hours.

This subsection may not be deemed to create or increase the liability of any person.

SOURCES: Laws, 2012, ch. 475, § 3, eff from and after July 1, 2012.

§ 37-171-7. Shared use agreements with community organizations and local governmental agencies.

(1) School districts are encouraged strongly to enter into shared use agreements with community organizations and local governmental agencies.

(2) Local government entities are expressly authorized to enter into such shared use agreements and/or expend public funds and/or to use public labor and/or equipment and/or commodities in furtherance of the purpose of such agreements.

(3) The State Department of Education, in consultation with the State Department of Health, shall develop a best practices tool kit relating to shared use agreements for school districts. This tool kit must include:

(a) Information outlining liability protections for both the school district and school district employees for injuries resulting from community use of school property or facilities for purposes of recreation or sport during nonschool hours;

(b) Model shared use agreement language;

(c) A list of technical assistance resources available for the school district to promote community recreational use of school property or facilities during nonschool hours;

(d) A list of potential community partners for shared use agreements; and

(e) A list of any grants or funding opportunities available to school districts to promote community recreational use of school property or facilities during nonschool hours.

The tool kit must be posted on the State Department of Education and State Department of Health websites. The State Department of Education shall review the information required by this section no less than every two (2) years and shall update the information as necessary.

(4) The State Department of Education shall provide a link on the department's website to any school district policies or procedures that promote community recreational use of school property or facilities in order to encourage information sharing among the school districts.

(5) Each school district, in consultation with the school health council, must address community recreational use of school property or facilities during nonschool hours.

SOURCES: Laws, 2012, ch. 475, § 4, eff from and after July 1, 2012.

Cross References — State agencies and public officials providing information about the agency or office to the public on a website are required to regularly review and update that information, see § 25-1-117.

CHAPTER 173

Dyslexia Therapy Scholarship for Students with Dyslexia Program

Sec.
37-173-1. Definitions [Repealed effective July 1, 2016].
37-173-3. Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program established [Repealed effective July 1, 2016].
37-173-5. Option to remove child from traditional school and enroll in public or nonpublic school that meets standards for unique learning needs of students with dyslexia; scholarship eligibility requirements [Repealed effective July 1, 2016].
37-173-7. Student eligibility for scholarship; duration of scholarship [Repealed effective July 1, 2016].
37-173-9. Public school option; nonpublic school option [Repealed effective July 1, 2016].
37-173-11. Parental obligations if applying for Mississippi Dyslexia Therapy Scholarship [Repealed effective July 1, 2016].
37-173-13. Maximum scholarship; report by nonpublic schools; disbursement of payments to nonpublic schools [Repealed effective July 1, 2016].
37-173-15. Screening of all compulsory-school-age children enrolled in public school for dyslexia; subsequent dyslexia evaluations [Repealed effective July 1, 2016].
37-173-17. Eligibility requirements for nonpublic schools to participate in scholarship program [Repealed effective July 1, 2016].
37-173-19. Publication of information regarding Mississippi Dyslexia Therapy Scholarship; annual reports [Repealed effective July 1, 2016].
37-173-21. Administrative and instructional personnel qualifications [Repealed effective July 1, 2016].
37-173-23. Criminal background checks and fingerprinting of school personnel [Repealed effective July 1, 2016].
37-173-25. Payment of federal and state aid program monies to participating schools; audit and budget submission requirements [Repealed effective July 1, 2016].
37-173-27. Liability for award or use of Mississippi Dyslexia Therapy Scholarship [Repealed effective July 1, 2016].
37-173-29. No expansion of regulatory authority of state over nonpublic schools beyond what is necessary to enforce this chapter [Repealed effective July 1, 2016].
37-173-31. Repeal of chapter [Repealed effective July 1, 2016].

§ 37-173-1. Definitions [Repealed effective July 1, 2016].

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Board" means the State Board of Education.

(b) "Department" means the State Department of Education.

(c) "Dyslexia" means a specific learning disability that is neurological in origin, characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities, which typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction, and secondary consequences which may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

(d) "Dyslexia therapy" means an appropriate specialized dyslexia instructional program that is delivered by a Mississippi Department of Education licensed dyslexia therapist which is scientific, research-based, Orton-Gillingham based, and is offered in a small group setting to teach students the components of reading instruction which include:

(i) Phonemic awareness to enable students to detect, segment, blend and manipulate sounds in spoken language;

(ii) Graphophonemic knowledge (phonics) for teaching the letter-sound plan of English;

(iii) The entire structure of the English language that encompasses morphology, semantics, syntax and pragmatics;

(iv) Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are carriers of meaning; and

(v) Strategies that students use for decoding, encoding, word recognition, fluency and comprehension.

These components shall be taught using instructional approaches that include explicit, direct instruction which is systematic, sequential and cumulative, following a logical plan of presenting the alphabetic principle commensurate with the students' needs, with no assumption of prior skills or language knowledge; individualized to meet the specific learning needs of each individual student in a small group setting; intensive, highly concentrated instruction that maximizes student engagement and uses specialized methods and materials; meaning-based instruction directed toward purposeful reading and writing, with an emphasis on comprehension and composition; and multisensory instruction that incorporates the simultaneous use of two (2) or more sensory pathways during teacher presentations and student practice.

(e) "Dyslexia therapist" means a professional who has completed training in a department approved Orton-Gillingham based dyslexia therapy training program attaining a AA license in dyslexia therapy or a professional participating in a state approved dyslexia therapy training program to attain a AA license in dyslexia therapy.

(f) "Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program" means a scholarship to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a nonpublic school of choice, for students in Grade 1 through Grade 6 diagnosed with dyslexia in order to receive comprehensive multisensory dyslexia therapy delivered by holders of an appropriate license in dyslexia therapy issued by the department.

(g) "School" means any public or state accredited nonpublic special purpose school that provides a specific learning environment that provides comprehensive dyslexia therapy instruction delivered by dyslexia therapists licensed by the department providing highly qualified education and intervention services to children diagnosed with the primary learning disability of dyslexia.

SOURCES: Laws, 2012, ch. 560, § 1, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-3. Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program established [Repealed effective July 1, 2016].

The Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a nonpublic school of choice, for students with a diagnosis of dyslexia. Students in Grades 1-6 who have been properly screened and diagnosed with dyslexia shall be eligible to receive scholarship assistance under this program.

SOURCES: Laws, 2012, ch. 560, § 2, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-5. Option to remove child from traditional school and enroll in public or nonpublic school that meets standards for unique learning needs of students with dyslexia; scholarship eligibility requirements [Repealed effective July 1, 2016].

(1) Parents or legal guardians may exercise the option to remove their child from a traditional public school setting to be enrolled in a public or nonpublic school which meets the standards for appropriate specific instruction designed to meet the unique learning needs of young dyslexic students. The objectives of such school shall be:

(a) To emphasize the importance of early intervention; and

(b) To provide intensive high-quality instruction of students in reading, spelling, writing, language arts, phonological awareness and fluency training, but shall not preclude instruction in mathematics, social studies, science, art, music and physical education based on the curriculum requirements of the State Department of Education.

(2) The parent or legal guardian of a public school student with dyslexia may request and receive from the state a Mississippi Dyslexia Therapy Scholarship for the child to enroll in and attend a nonpublic school in accordance with this section if:

(a) The student has spent the previous school year in attendance at a Mississippi public school or any other state approved nonpublic school in the state that emphasizes instruction in dyslexia intervention; or

(b) The parent or legal guardian has obtained acceptance for admission of the student to a nonpublic school that is eligible for the program under Section 37-173-19 and has requested from the department a scholarship within thirty (30) days before the date of the first scholarship payment. The request must be through a communication directly to the department in a manner that creates a written or electronic record of the request and the date of receipt of the request. The Department of Education must notify the district of the parent's or legal guardian's intent upon receipt of the parent's or legal guardian's request.

SOURCES: Laws, 2012, ch. 560, § 3, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-7. Student eligibility for scholarship; duration of scholarship [Repealed effective July 1, 2016].

(1) A student is not eligible for a Mississippi Dyslexia Therapy Scholarship while he or she is:

(a) Enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;

(b) Participating in a home-school education program;

(c) Participating in a virtual school, correspondence school, or distance learning program that receives state funding under the student's participation unless the participation is limited to no more than two (2) courses per school year;

(d) Not having regular and direct contact with his or her private school teachers at the school's physical location.

(2)(a) For purposes of continuity of educational choice, a Mississippi Dyslexia Therapy Scholarship shall remain in force until the student returns to a public school or completes Grade 6, whichever occurs first.

(b) Upon reasonable notice to the department and the school district, the student's parent or legal guardian may remove the student from the nonpublic school and place the student in a public school in accordance with this section.

SOURCES: Laws, 2012, ch. 560, § 4, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-9. Public school option; nonpublic school option [Repealed effective July 1, 2016].

(1)(a) The parent or legal guardian is not required to accept the offer of enrolling in another public school in lieu of requesting a Mississippi Dyslexia Therapy Scholarship to a nonpublic school. However, if the parent or legal guardian chooses the public school option, the student may continue attending a public school chosen by the parent or legal guardian until the student completes Grade 6.

(b) If the parent or legal guardian chooses a public school within the district, the school district shall provide transportation to the public school selected by the parent or legal guardian. However, if the parent or legal guardian chooses a public school in another district, the parent or legal guardian is responsible to provide transportation to the school of choice.

(2) Each local school district shall make an initial determination of whether a student diagnosed with dyslexia qualifies under the Individuals with Disabilities Education Act (IDEA) to receive services and funding under the provisions of the IDEA before proceeding to the development of a 504 Plan for each dyslexic student eligible for educational services or equipment, or both, under Sections 37-23-1 through 37-23-157. If a student's diagnosis of dyslexia results in a determination that the disability is not a disability which would qualify the student as eligible under the IDEA, then in developing the written 504 Plan for each dyslexia student, there shall be a presumption that proficiency in spelling, reading and writing are essential for the student to achieve appropriate educational progress. Each local school district shall develop interventions and strategies to address the needs of those students diagnosed with dyslexia which provide the necessary accommodations to enable the student to achieve appropriate educational progress. The interventions and strategies developed shall include, but not be limited to, the use of the 3-Tier Instructional Model and the utilization of provisions of the IDEA and Section 504 to address those needs.

Furthermore, these provisions do not prohibit a parent or legal guardian of a student diagnosed with dyslexia, at any time, from choosing the option of a Mississippi Dyslexia Therapy Scholarship which would allow the student to attend another public school or nonpublic special purpose school.

(3) If the parent or legal guardian chooses the nonpublic school option and the student is accepted by the nonpublic school pending the availability of a space for the student, the parent or legal guardian of the student must notify the department thirty (30) days before the first scholarship payment and before entering the nonpublic school in order to be eligible for the scholarship when a space becomes available for the student in the nonpublic school.

(4) The parent or legal guardian of a student may choose, as an alternative, to enroll the student in and transport the student to a public school in an adjacent school district which has available space and has a program with dyslexia services that provide daily dyslexia therapy sessions delivered by a department licensed dyslexia therapist, and that school district shall accept the student and report the student for purposes of the district's funding under the Mississippi Adequate Education Program.

SOURCES: Laws, 2012, ch. 560, § 5, eff from and after July 1, 2012.

Cross References — Mississippi Adequate Education Program, see § 37-151-1 et seq.

Federal Aspects — Individuals with Disabilities Education Act (IDEA), see 20 USCS § 1400 et seq.

Section 504 of the Rehabilitation Act, see 29 USCS § 794.

§ 37-173-11. Parental obligations if applying for Mississippi Dyslexia Therapy Scholarship [Repealed effective July 1, 2016].

A parent or legal guardian who applies for a Mississippi Dyslexia Therapy Scholarship is exercising his or her parental option to place his or her child in a nonpublic school. Each participating parent or legal guardian and student shall adhere to the following:

(a) The parent or legal guardian must select the nonpublic school and apply for the admission of his or her child;

(b) The parent or legal guardian must have requested the scholarship at least thirty (30) days before the date of the first scholarship payment;

(c) Any student participating in the Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program must remain in attendance throughout the school year unless excused by the school for illness or other good cause; and

(d) Each parent or legal guardian and each student has an obligation to the nonpublic special purpose school to comply with the nonpublic special purpose school's published policies.

SOURCES: Laws, 2012, ch. 560, § 6, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-13. Maximum scholarship; report by nonpublic schools; disbursement of payments to nonpublic schools [Repealed effective July 1, 2016].

(1) The maximum scholarship granted per eligible student with dyslexia shall be an amount equivalent to the Mississippi Adequate Education Program base student cost.

(2)(a) The nonpublic school under this program shall report to the Mississippi Department of Education the number of students with dyslexia who are enrolled in nonpublic schools on the Mississippi Dyslexia Therapy Scholarships as of September 30 of each year in order to determine funding for the subsequent year. Funds may not be transferred from any funding provided to the Mississippi School for the Deaf and the Blind for program participants who are eligible under Section 37-173-5.

(b) The Mississippi Department of Education will disburse payments to nonpublic schools under this program in twelve (12) substantially equal installments. The initial payment shall be made after department verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the nonpublic school.

SOURCES: Laws, 2012, ch. 560, § 7, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

Cross References — Determination of Mississippi Adequate Education Program base student cost, see § 37-151-7.

§ 37-173-15. Screening of all compulsory-school-age children enrolled in public school for dyslexia; subsequent dyslexia evaluations [Repealed effective July 1, 2016].

(1)(a) Each local school district shall adopt a policy to ensure that students will be screened in the Spring of kindergarten and the Fall of Grade 1. The component of the screening must include:

(i) Phonological awareness and phonemic awareness;
(ii) Sound symbol recognition;
(iii) Alphabet knowledge;
(iv) Decoding skills;
(v) Encoding skills; and
(vi) Rapid naming.

(b) If a student fails the screener, the parent or legal guardian will be notified of the results of the screener. Subsequent dyslexia evaluations may be administered by licensed professionals, including:

(i) Psychologists, licensed under Chapter 31, Title 73, Mississippi Code of 1972;

(ii) Psychometrists, licensed by the Mississippi Department of Education; or

(iii) Speech Language Pathologists, licensed under Chapter 38, Title 73, Mississippi Code of 1972.

(c) If a student fails the screener, the school district, in its discretion, may perform a comprehensive dyslexia evaluation, such evaluation must be administered by any of the licensed professionals identified under paragraph (b) of this subsection.

(d) If a parent or legal guardian of a student who fails the dyslexia screener exercises the option to have a subsequent evaluation performed, such evaluation shall be administered by any of the licensed professionals identified under paragraph (b) of this subsection, and the resulting diagnosis of the subsequent evaluation must be accepted by the school district for purposes of determining eligibility for placement within a dyslexia therapy program within the current school or to receive a Mississippi Dyslexia Therapy Scholarship for placement in a dyslexia program in another public school or nonpublic special purpose school.

(2) The screening of all compulsory-school-age children enrolled in each local public school district for dyslexia required by subsection (1)(a) of this section shall in no manner nullify or defeat the requirements of the pilot programs adopted by the State Department of Education to test certain students enrolled or enrolling in public schools for dyslexia under Section 37-23-15.

SOURCES: Laws, 2012, ch. 560, § 8, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-17. Eligibility requirements for nonpublic schools to participate in scholarship program [Repealed effective July 1, 2016].

(1) To be eligible to participate in the Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program, a nonpublic school must:

(a) Be a state accredited special purpose school;

(b) Provide to the department all documentation required for a student's participation, including the nonpublic school's and student's fee schedules, at least thirty (30) days before the first quarterly scholarship payment is made for the student.

(c) Be academically accountable to the parent or legal guardian for meeting the educational needs of the student by, at a minimum, annually providing to the parent or legal guardian a written explanation of the student's progress.

(d) Maintain in this state a physical location where a scholarship student regularly attends classes.

(2) The inability of a nonpublic school to meet the requirements of this subsection shall constitute a basis for the ineligibility of the nonpublic school to participate in the scholarship program as determined by the department.

SOURCES: Laws, 2012, ch. 560, § 9, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-19. Publication of information regarding Mississippi Dyslexia Therapy Scholarship; annual reports [Repealed effective July 1, 2016].

(1) The department shall publicize information regarding the Mississippi Dyslexia Therapy Scholarship on the department's official website.

(2) Annually, by December 15, report to the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives the Department of Education's actions with respect to implementing accountability in the scholarship program under this section, any substantiated allegations or violations of law or rule by an eligible nonpublic school under this program concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results and the corrective action taken by the Department of Education.

SOURCES: Laws, 2012, ch. 560, § 10, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

Cross References — State agencies and public officials providing information about the agency or office to the public on a website are required to regularly review and update that information, see § 25-1-117.

§ 37-173-21. Administrative and instructional personnel qualifications [Repealed effective July 1, 2016].

(1) The State Board of Education in conjunction with each nonpublic school and local school board operating under the provisions of this chapter, may:

(a) Extend the school day or length of the scholastic year;

(b) Develop and establish a curriculum that is consistent with the Mississippi Curriculum Framework in the subject areas of mathematics, social studies, science, music, art and physical education; and

(c) Select, purchase and use textbooks, literature and other instructional materials that would improve educational attainment by students in the school, subject to the approval of the board.

(2) The qualified personnel to facilitate the educational process of learning and instruction for children with dyslexia who attend the schools shall consist of the following:

(a) An administrator or director with additional training in the characteristics of dyslexia;

(b) A dyslexia therapist licensed by the department in dyslexia therapy;

(c) Dyslexia therapists in training participating in a department approved dyslexia therapy graduate internship program; and

(d) Licensed elementary teachers under the supervision of a state department licensed dyslexia therapist.

SOURCES: Laws, 2012, ch. 560, § 11, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-23. Criminal background checks and fingerprinting of school personnel [Repealed effective July 1, 2016].

Teachers and other school personnel shall be subject to criminal history record checks and fingerprinting requirements applicable to other public schools under Section 37-9-17(2) and (3).

SOURCES: Laws, 2012, ch. 560, § 12, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-25. Payment of federal and state aid program monies to participating schools; audit and budget submission requirements [Repealed effective July 1, 2016].

(1) Each school providing instruction to children with dyslexia shall certify to the State Department of Education its student enrollment in the same manner as local school districts.

(2) The department shall direct the proportionate share of monies generated under federal and state categorical aid programs to the participating school for serving students eligible for the aid. The state shall ensure that each school is treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars. Each school participating in the scholarship program shall comply with all reporting requirements to receive the aid.

(3)(a) Each school shall adhere to generally accepted accounting principles as promulgated by nationally recognized professional organizations.

(b) Each school shall have its financial records audited annually, at the end of each fiscal year, by the State Auditor and shall file a copy of each audit report and accompanying management letter with the board by July 30.

(4) Nothing in this chapter shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of any school authorized under this chapter, except religious or sectarian organizations. The State Board of Education, acting on behalf of the participating schools, is authorized to accept gifts, donations, and grants of any kind made to a participating school and to expend or use such gifts, donations, and grants in accordance with the conditions prescribed by the donor; however, no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of state law or board rule.

SOURCES: Laws, 2012, ch. 560, § 13, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-27. Liability for award or use of Mississippi Dyslexia Therapy Scholarship [Repealed effective July 1, 2016].

No liability shall arise on the part of the state based on the award or use of a Mississippi Dyslexia Therapy Scholarship.

SOURCES: Laws, 2012, ch. 560, § 14, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-29. No expansion of regulatory authority of state over nonpublic schools beyond what is necessary to enforce this chapter [Repealed effective July 1, 2016].

The inclusion of eligible nonpublic schools within options available to Mississippi public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of nonpublic schools beyond those reasonably necessary to enforce requirements expressly set forth in this chapter.

SOURCES: Laws, 2012, ch. 560, § 15, eff from and after July 1, 2012.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section. The reference "this chapter" was substituted for "this section" at the end. The Joint Committee ratified the correction at its August 16, 2012, meeting.

Editor's Note — For repeal of this section, see § 37-173-31.

§ 37-173-31. Repeal of chapter [Repealed effective July 1, 2016].

The provisions of this chapter shall stand repealed from and after July 1, 2016.

SOURCES: Laws, 2012, ch. 560, § 16, eff from and after July 1, 2012.

CHAPTER 175

Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program

Sec.

37-175-1. Definitions.
37-175-3. Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program established.
37-175-5. Option to remove child from public school to enroll in nonpublic school with specific instruction for students with speech-language impairment.
37-175-7. Eligibility for and duration of scholarship.
37-175-9. Initial determination of qualifying eligibility ruling of speech-language impairment; public, nonpublic school options.
37-175-11. Parental, guardian and student obligations if applying for Mississippi Speech-Language Therapy Scholarship.
37-175-13. State Department of Education duties regarding administration of program; determination of funding; transportation of students.
37-175-15. Screening of students for speech, language, voice and fluency disorders.
37-175-17. Eligibility requirements for nonpublic schools to participate in scholarship program.
37-175-19. Publication of information regarding Mississippi Speech-Language Therapy Scholarship; annual reports.
37-175-21. Length of school day and scholastic year; development of curriculum; purchase of instructional material; qualifications of personnel providing speech-language services.
37-175-23. Criminal history record checks and fingerprinting of school personnel.
37-175-25. Equitable calculation and disbursement of state categorical aid program dollars; audit and budget submission requirements.
37-175-27. Liability for award or use of Mississippi Speech-Language Therapy Scholarship.
37-175-29. No expansion of regulatory authority of state over nonpublic schools beyond what is necessary to enforce this chapter.

§ 37-175-1. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Board" means the State Board of Education.

(b) "Department" means the State Department of Education.

(c) "Speech-language impairment," as defined under IDEA, means a communication disorder, such as stuttering, impaired articulation, a language impairment or a voice impairment, that adversely affects a child's educational performance, which include:

(i) Articulation disorders: difficulties producing sounds in syllables or saying words incorrectly to the point that listeners cannot understand what is being said;

(ii) Fluency disorders: problems in which the flow of speech is interrupted by abnormal stoppages, repetitions, prolonged sounds and syllables or avoided, and where there may be silent blocks or inappropriate inhalation, exhalation or phonation patterns;

(iii) Resonance or voice disorders: problems with abnormal pitch, volume, resonance or quality of the voice, which may also cause pain or discomfort when speaking;

(iv) Receptive language disorders: difficulties understanding or processing language; and

(v) Expressive language disorders: difficulty putting words together, limited vocabulary or inability to use language in a socially appropriate manner.

(d) "Speech-language therapy" means an appropriate specialized speech-language instructional program that is delivered by a speech-language pathologist which is scientific and research-based. These components shall be taught using instructional approaches that include explicit, direct instruction which is systematic, sequential and cumulative, individualized to meet the specific learning needs of each individual student.

(e) "Speech-language pathologist" means a professional who has met the requirements and acquired a Certificate of Clinical Competence from the American Speech-Language-Hearing Association, or who has completed training in a department approved American Speech-Language-Hearing Association based speech-language pathology training program attaining a AA license in speech-language pathology.

(f) "Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program" means a scholarship to provide the option to provide a scholarship to a nonpublic school of choice, for students in kindergarten through Grade 6 or its equivalent with an eligibility ruling of a speech-language impairment in order to receive comprehensive multimodality speech-language therapy delivered by holders of an appropriate license and clinical certification in speech-language pathology issued by the department and the American Speech-Language-Hearing Association.

(g) "School" means any state accredited nonpublic special purpose school that is organized to provide and emphasizes instruction in speech-language therapy and intervention as the primary purpose of the school and provides a specific learning environment that provides comprehensive speech-language therapy instruction delivered by speech-language pathologists licensed by the department providing highly qualified education and intervention services to children with a primary eligibility ruling of speech-language impairment.

SOURCES: Laws, 2013, ch. 564, § 1, eff from and after July 1, 2013.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (g). The word "impariment" was changed to "impairment." The Joint Committee ratified the correction at its August 1, 2013, meeting.

Federal Aspects — Individuals with Disabilities Education Act (IDEA), see 20 USCS §§ 1400 et seq.

§ 37-175-3. Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program established.

The Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program, which may also be cited as the Nate Rogers Scholarship for Students with Disabilities Program, is established to provide a scholarship to a nonpublic school of choice, for students with an eligibility ruling of a speech-language impairment. Students in kindergarten through Grade 6 or its equivalent who have been properly evaluated and received an eligibility ruling of speech-language impairment shall be eligible to receive scholarship assistance under this program.

SOURCES: Laws, 2013, ch. 564, § 2, eff from and after July 1, 2013.

§ 37-175-5. Option to remove child from public school to enroll in nonpublic school with specific instruction for students with speech-language impairment.

(1) Parents or legal guardians may exercise the option to remove their child from a traditional public school setting to be enrolled in a nonpublic school which meets the standards for appropriate specific instruction designed to meet the unique learning needs of young students with a speech-language impairment. The objectives of such school shall be:

(a) To emphasize the importance of early intervention; and

(b) To provide intensive high-quality speech-language pathology services.

(2) The parent or legal guardian of a public school student with a speech-language impairment may request and receive from the state a Mississippi Speech-Language Therapy Scholarship for the child to enroll in and attend a nonpublic school in accordance with this section if:

(a) The student has spent the previous school year in attendance at a Mississippi public school or any other state accredited nonpublic special purpose school in the state that is organized to provide and emphasizes instruction in speech-language therapy and intervention as the primary purpose of the school; or

(b) The parent or legal guardian has obtained acceptance for admission of the student to a nonpublic school that is eligible for the program under Section 37-175-19 and has requested from the department a scholarship within thirty (30) days before the date of the first scholarship payment. The request must be through a communication directly to the department in a manner that creates a written or electronic record of the request and the date of receipt of the request. The State Department of Education must notify the district of the parent's or legal guardian's intent upon receipt of the parent's or legal guardian's request.

SOURCES: Laws, 2013, ch. 564, § 3, eff from and after July 1, 2013.

§ 37-175-7. Eligibility for and duration of scholarship.

(1) A student is not eligible for a Mississippi Speech-Language Therapy Scholarship while he or she is:

(a) Enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;

(b) Participating in a home-school education program;

(c) Participating in a virtual school, correspondence school, or distance learning program that receives state funding under the student's participation unless the participation is limited to no more than two (2) courses per school year;

(d) Not having regular and direct contact with his or her private school teachers at the school's physical location.

(2)(a) For purposes of continuity of educational choice, a Mississippi Speech-Language Therapy Scholarship shall remain in force until the student returns to a public school or completes Grade 6 or its equivalent, whichever occurs first.

(b) Upon reasonable notice to the department and the school district, the student's parent or legal guardian may remove the student from the nonpublic school and place the student in a public school in accordance with this section.

SOURCES: Laws, 2013, ch. 564, § 4, eff from and after July 1, 2013.

§ 37-175-9. Initial determination of qualifying eligibility ruling of speech-language impairment; public, nonpublic school options.

(1) Each local school district shall make an initial determination of whether a student has an eligibility ruling of speech-language impairment that qualifies under the Individuals with Disabilities Education Act (IDEA) to receive services and funding under the provisions of the IDEA before proceeding to the development of a plan for each speech-language impaired student eligible for educational services or equipment, or both, under Sections 37-23-1 through 37-23-150.

Furthermore, these provisions do not prohibit a parent or legal guardian of a student who has an eligibility ruling of speech-language impairment, at any time, from choosing the option of a Mississippi Speech-Language Therapy Scholarship which would allow the student to attend another nonpublic special purpose school.

(2) If the parent or legal guardian chooses the nonpublic school option and the student is accepted by the nonpublic school pending the availability of a space for the student, the parent or legal guardian of the student must notify the department thirty (30) days before the first scholarship payment and before entering the nonpublic school in order to be eligible for the scholarship when a space becomes available for the student in the nonpublic school.

SOURCES: Laws, 2013, ch. 564, § 5, eff from and after July 1, 2013.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in a statutory reference in subsection (1). The reference to "Sections 37-23-1 through 37-23-157" was changed to "Sections 37-23-1 through 37-23-150." The Joint Committee ratified the correction at its August 1, 2013, meeting.

Federal Aspects — Individuals with Disabilities Education Act (IDEA), see 20 USCS §§ 1400 et seq.

§ 37-175-11. Parental, guardian and student obligations if applying for Mississippi Speech-Language Therapy Scholarship.

A parent or legal guardian who applies for a Mississippi Speech-Language Therapy Scholarship is exercising his or her parental option to place his or her child in a nonpublic school. Each participating parent or legal guardian and student shall adhere to the following:

(a) The parent or legal guardian must select the nonpublic school and apply for the admission of his or her child;

(b) The parent or legal guardian must have requested the scholarship at least thirty (30) days before the date of the first scholarship payment;

(c) Any student participating in the Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program must remain in attendance throughout the school year unless excused by the school for illness or other good cause; and

(d) Each parent or legal guardian and each student has an obligation to the nonpublic special purpose school to comply with the nonpublic special purpose school's published policies.

SOURCES: Laws, 2013, ch. 564, § 6, eff from and after July 1, 2013.

§ 37-175-13. State Department of Education duties regarding administration of program; determination of funding; transportation of students.

(1) The maximum scholarship granted per eligible student with speech-language impairment shall be an amount equivalent to the Mississippi Adequate Education Program base student cost.

(2)(a) Any nonpublic school under this program shall report to the State Department of Education the number of students with speech-language impairment who are enrolled in nonpublic schools on the Mississippi Speech-Language Therapy Scholarships as of September 30 of each year in order to determine funding for the subsequent year. Funds may not be transferred from any funding provided to the Mississippi School for the Deaf and the Blind for program participants who are eligible under Section 37-175-5.

(b) The State Department of Education shall make payments to nonpublic schools for each student at the nonpublic school equal to the state share of the adequate education program payments for each student in average daily attendance at the school district from which the student transferred. In calculating the local contribution for purposes of determining the state share of the adequate education program payments, the department shall deduct the pro rata local contribution of the school district in which the student resides, to be determined as provided in Section 37-151-7(2)(a).

(c) Payments made pursuant to this subsection by the State Department of Education must be made at the same time and in the same manner as adequate education program payments are made to school districts under Sections 37-151-101 and 37-151-103. Amounts payable to a nonpublic school must be determined by the State Department of Education.

(3) If the parent opts to remove a child from a public school to a nonpublic special purpose school and to receive a scholarship under this chapter, then transportation shall be provided at the parent's or guardian's expense.

SOURCES: Laws, 2013, ch. 564, § 7, eff from and after July 1, 2013.

Cross References — Determination of Mississippi Adequate Education Program base student cost, see § 37-151-7.

§ 37-175-15. Screening of students for speech, language, voice and fluency disorders.

(1) Each local school district shall adopt a policy to ensure that students will be screened for speech, language, voice and fluency disorders before the end of Grade 1.

(2) If a student fails the screener, the parent or legal guardian will be notified of the results of the screener.

(3) If a student fails the screener, the school district, in its discretion, may perform a comprehensive speech-language evaluation.

(4) If a parent or a legal guardian of a student who fails the speech-language screener exercises the option to have a subsequent evaluation performed, such evaluation shall be administered by a speech-language pathologist. The subsequent evaluation obtained by the parents shall be considered by the school district for eligibility in the area of speech-language in accordance with the procedures mandated by the federal Individuals with Disabilities Education Act (IDEA) for a placement in a speech-language program within the current school or to receive a Mississippi speech-language therapy scholarship for placement in a speech-language program in a nonpublic special purpose school. A parent or legal guardian may provide written notification to the local school district opting out of the mandatory screening provided by the district. The provisions of this section shall not apply to homeschooled students.

SOURCES: Laws, 2013, ch. 564, § 8, eff from and after July 1, 2013.

Federal Aspects — Individuals with Disabilities Education Act (IDEA), see 20 USCS §§ 1400 et seq.

§ 37-175-17. Eligibility requirements for nonpublic schools to participate in scholarship program.

(1) To be eligible to participate in the Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program, a nonpublic school must:

(a) Be a state accredited nonpublic special purpose school in the state that is organized to provide and emphasizes instruction in speech-language therapy and intervention as the primary purpose of the school;

(b) Provide to the department all documentation required for a student's participation, including the nonpublic school's and student's fee schedules, at least thirty (30) days before the first quarterly scholarship payment is made for the student;

(c) Be academically accountable to the parent or legal guardian for meeting the educational needs of the student by, at a minimum, annually providing to the parent or legal guardian a written explanation of the student's progress;

(d) Maintain in this state a physical location where a scholarship student regularly attends classes.

(2) The inability of a nonpublic school to meet the requirements of this subsection shall constitute a basis for the ineligibility of the nonpublic school to participate in the scholarship program as determined by the department.

SOURCES: Laws, 2013, ch. 564, § 9, eff from and after July 1, 2013.

§ 37-175-19. Publication of information regarding Mississippi Speech-Language Therapy Scholarship; annual reports.

(1) The department shall publicize information regarding the Mississippi Speech-Language Therapy Scholarship on the department's official website.

(2) The department shall annually, by December 15, report to the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives the department's actions with respect to implementing accountability in the scholarship program under this section, any substantiated allegations or violations of law or rule by an eligible nonpublic school under this program concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results and the corrective action taken by the department.

SOURCES: Laws, 2013, ch. 564, § 10, eff from and after July 1, 2013.

§ 37-175-21. Length of school day and scholastic year; development of curriculum; purchase of instructional material; qualifications of personnel providing speech-language services.

(1) The State Board of Education in conjunction with each nonpublic school operating under the provisions of this chapter, may:

(a) Extend the school day or length of the scholastic year;

(b) Develop and establish a curriculum that is consistent with the Mississippi Curriculum Framework in the subject areas of mathematics, social studies, science, music, art and physical education; and

(c) Select, purchase and use textbooks, literature and other instructional materials that would improve educational attainment by students in the school, subject to the approval of the board.

(2) The qualified personnel to provide speech-language services for children with speech-language impairment who attend the nonpublic special purpose schools shall consist of speech-language pathologists.

SOURCES: Laws, 2013, ch. 564, § 11, eff from and after July 1, 2013.

§ 37-175-23. Criminal history record checks and fingerprinting of school personnel.

Teachers and other school personnel shall be subject to criminal history record checks and fingerprinting requirements applicable to other public schools under Section 37-9-17(2) and (3).

SOURCES: Laws, 2013, ch. 564, § 12, eff from and after July 1, 2013.

§ 37-175-25. Equitable calculation and disbursement of state categorical aid program dollars; audit and budget submission requirements.

(1) Each school providing instruction to children with speech-language impairment shall certify to the State Department of Education its student enrollment in the same manner as local school districts.

(2) The state shall ensure that each school is treated equitably in the calculation and disbursement of all state categorical aid program dollars. Each school participating in the scholarship program shall comply with all reporting requirements to receive the aid.

(3)(a) Each nonpublic school shall adhere to generally accepted accounting principles as promulgated by nationally recognized professional organizations.

(b) Each school shall have its financial records audited annually, at the end of each fiscal year, by the State Auditor and shall file a copy of each audit report and accompanying management letter with the board by July 30.

(4) Nothing in this chapter shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment

or operation of any school authorized under this chapter, except religious or sectarian organizations. The State Board of Education, acting on behalf of the participating schools, is authorized to accept gifts, donations, and grants of any kind made to a participating school and to expend or use such gifts, donations, and grants in accordance with the conditions prescribed by the donor; however, no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of federal law, state law or board rule.

SOURCES: Laws, 2013, ch. 564, § 13, eff from and after July 1, 2013.

§ 37-175-27. Liability for award or use of Mississippi Speech-Language Therapy Scholarship.

No liability shall arise on the part of the state based on the award or use of a Mississippi Speech-Language Therapy Scholarship.

SOURCES: Laws, 2013, ch. 564, § 14, eff from and after July 1, 2013.

§ 37-175-29. No expansion of regulatory authority of state over nonpublic schools beyond what is necessary to enforce this chapter.

The inclusion of eligible nonpublic schools within options available to Mississippi public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of nonpublic schools beyond those reasonably necessary to enforce requirements expressly set forth in this chapter.

SOURCES: Laws, 2013, ch. 564, § 15, eff from and after July 1, 2013.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error. The phrase “set forth in this section” was changed to “set forth in this chapter” at the end of the section. The Joint Committee ratified the correction at its August 1, 2013, meeting.

CHAPTER 177

Literacy-Based Promotion Act

Sec.

37-177-1. Literacy-based Promotion Act established; purpose; determination of a reading deficiency in students in grades K through 3.
37-177-3. Written notification to parent or guardian of determination of reading deficiency; contents of notification.
37-177-5. Establishment of Mississippi Reading Panel; purpose; composition.
37-177-7. Selection of schools for reading intervention program; supervisory position in each school responsible for implementation of reading intervention program; use of data coaches pilot programs in certain "C" level or low performing districts or schools.
37-177-9. Assignment of grade level based on student's age or other social promotion prohibited; promotion to grade 4 prohibited unless reading deficiency remedied before end of grade 3.
37-177-11. Good cause exemption for promotion to grade 4 of student not meeting academic requirements.
37-177-13. Actions required of school districts for grade 3 students not promoted to grade 4.
37-177-15. Intensive acceleration class for certain students; purpose.
37-177-17. Annual report regarding student progression and student retention and promotion.
37-177-19. Implementation of chapter.
37-177-21. Certain components of provisions of this chapter subject to legislative appropriation.

§ 37-177-1. Literacy-based Promotion Act established; purpose; determination of a reading deficiency in students in grades K through 3.

(1) There is established an act prohibiting social promotion to be known as the "Literacy-Based Promotion Act," the purpose of which is to improve the reading skills of Kindergarten and First through Third Grade students enrolled in the public schools so that every student completing the Third Grade is able to read at or above grade level. It is the intent of the Legislature, in establishing this act, to ensure that: each Kindergarten and First through Third Grade student's progression is determined, in part, upon the student's proficiency in reading; the policies of local school boards facilitate this proficiency; and each student and the student's parent or legal guardian is informed of the student's academic progress.

(2) Each public school student who exhibits a substantial deficiency in reading at any time, as demonstrated through performance on a reading screener approved or developed by the State Department of Education or through locally determined assessments and teacher observations conducted in Kindergarten and Grades 1 through 3 or through statewide end-of-year assessments or approved alternate yearly assessments in Grade 3, must be given intensive reading instruction and intervention immediately following the identification of the reading deficiency.

(3) The universal reading screener or locally determined reading assessment may be given in the first thirty (30) days of the school year and repeated if indicated at midyear and at the end of the school year to determine student progression in reading in Kindergarten through Third Grade. If it is determined that the student continues to have a reading deficiency, the student must be provided with continued intensive reading instruction and intervention by the school district until the reading deficiency is remedied. A student exhibiting continued reading deficiency with continued intensive interventions should be considered for exceptional criteria evaluation.

(4) A Kindergarten or First, Second or Third Grade student identified with a deficiency in reading must be provided intensive interventions in reading to ameliorate the student's specific reading deficiency, as identified by a valid and reliable diagnostic assessment. The intensive intervention must include effective instructional strategies, and appropriate teaching methodologies necessary to assist the student in becoming a successful reader, able to read at or above grade level, and ready for promotion to the next grade. A Kindergarten, First, Second or Third Grade student identified with a reading deficiency or not promoted may be placed in a transition class.

SOURCES: Laws, 2013, ch. 495, § 1, eff from and after passage (approved April 17, 2013.)

§ 37-177-3. Written notification to parent or guardian of determination of reading deficiency; contents of notification.

Immediately upon the determination of a reading deficiency, and subsequently with each quarterly progress report until the deficiency is remediated, the parent or legal guardian of a Kindergarten or First, Second or Third Grade student who exhibits a substantial deficiency in reading must be notified in writing by the student's teacher of the following:

(a) That the student has been identified as having a substantial deficiency in reading;

(b) A description of the services that the school district currently is providing to the student;

(c) A description of the proposed supplemental instructional services and supports that are designed to remediate the identified area of reading deficiency which the school district plans to provide the student;

(d) That if the student's reading deficiency is not remediated before the end of the student's Third Grade year, the student will not be promoted to Fourth Grade unless a good cause exemption specified under Section 37-177-11 is met;

(e) Strategies for parents and guardians to use in helping the student to succeed in reading proficiency; and

(f) That while the state annual accountability assessment for reading in Third Grade is the initial determinant, it is not the sole determiner of promotion and that approved alternative standardized assessments are available to assist the school district in knowing when a child is reading at or above grade level and ready for promotion to the next grade.

SOURCES: Laws, 2013, ch. 495, § 2, eff from and after passage (approved April 17, 2013.)

§ 37-177-5. Establishment of Mississippi Reading Panel; purpose; composition.

The State Department of Education shall establish a Mississippi Reading Panel to collaborate with the State Department of Education in recommending appropriate equitable alternative standardized assessments and cut scores to be used to determine promotion to the Fourth Grade of those Third Grade students who scored at the lowest achievement level on the state annual accountability assessment or who, for unforeseen circumstances, were unable to take the assessment. The panel should have knowledge and input in the adoption or development of a universal screener for required use only in select schools most in need for the reading intervention program to identify reading deficiencies and determine progress. A suggestive list of no less than four (4) screening assessments should be available to schools not selected for the critical reading intervention program taking into consideration those screening assessments already being used satisfactorily in Mississippi elementary schools. An approved alternative standardized reading assessment may be used in 2014-2015 in the transition to common core standardization of testing. The panel shall consist of six (6) members as follows: the State Superintendent of Education, or his/her designee, who will chair the committee; the Chair of the House Education Committee, or his designee; the Chairman of the Senate Education Committee, or his designee; one (1) member appointed by the Governor; and two (2) additional members appointed by the State Superintendent of Education.

SOURCES: Laws, 2013, ch. 495, § 3, eff from and after passage (approved April 17, 2013.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the second and third sentences. The word “leading” was changed to “reading.” The Joint Committee ratified the correction at its August 1, 2013, meeting.

§ 37-177-7. Selection of schools for reading intervention program; supervisory position in each school responsible for implementation of reading intervention program; use of data coaches pilot programs in certain “C” level or low performing districts or schools.

The State Department of Education shall:

(a) Select schools most in need for the reading intervention program and create criteria for selection for participation based on number and percentages of students scoring in the lowest two (2) achievement levels on state-adopted yearly reading assessments, screening results, and other relevant data;

(b) Assign a supervisory position within each school to be responsible for the faithful implementation of the Reading Intervention Program; and

(c) Beginning with the 2014-2015 school year, the Mississippi Department of Education shall conduct a pilot program with willing "C" level or low-performing districts and/or schools in a geographically concise region. The pilot shall focus on the use of data coaches to improve reading and literacy, to determine the effectiveness of intense data-focused professional development, provide expert support in literacy and early reading instruction but it shall not necessarily be limited to literacy. Data coaches should be experts in both pedagogy and data analysis who facilitate professional learning community meetings, and provide observation and feedback, to help teachers and district leaders build skills in using data to inform instruction. The department is authorized to contract with a private sector provider to implement the pilot and work in partnership with a four-year institution of higher learning that has a center for literacy instruction to develop and implement the pilot. The department shall also work in consultation with the Reading Panel regarding the development and implementation of the pilot program.

SOURCES: Laws, 2013, ch. 495, § 4; Laws, 2014, ch. 536, § 1, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (a). The word "leading" was changed to "reading." The Joint Committee ratified the correction at its August 1, 2013, meeting.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (a) by substituting the word "reading" for "leading." The Joint Committee ratified the correction at its July 24, 2014, meeting.

Amendment Notes — The 2014 amendment added (c), and made related stylistic changes.

§ 37-177-9. Assignment of grade level based on student's age or other social promotion prohibited; promotion to grade 4 prohibited unless reading deficiency remedied before end of grade 3.

A public school student may not be assigned a grade level based solely on the student's age or any other factors that constitute social promotion.

Beginning in the 2014-2015 school year, if a student's reading deficiency is not remedied by the end of the student's Third Grade year, as demonstrated by the student scoring at the lowest achievement level in reading on the state annual accountability assessment or on an approved alternative standardized assessment for Third Grade, the student shall not be promoted to Fourth Grade.

SOURCES: Laws, 2013, ch. 495, § 5, eff from and after passage (approved April 17, 2013.)

§ 37-177-11. Good cause exemption for promotion to grade 4 of student not meeting academic requirements.

(1) A Third Grade student who does not meet the academic requirements for promotion to the Fourth Grade may be promoted by the school district only for good cause. Good cause exemptions for promotion are limited to the following students:

(a) Limited English proficient students who have had less than two (2) years of instruction in an English Language Learner program;

(b) Students with disabilities whose individual education plan (IEP) indicates that participation in the statewide accountability assessment program is not appropriate, as authorized under state law;

(c) Students with a disability who participate in the state annual accountability assessment and who have an IEP or a Section 504 plan that reflects that the individual student has received intensive remediation in reading for more than two (2) years but still demonstrates a deficiency in reading and previously was retained in Kindergarten or First, Second or Third Grade;

(d) Students who demonstrate an acceptable level of reading proficiency on an alternative standardized assessment approved by the State Board of Education; and

(e) Students who have received intensive intervention in reading for two (2) or more years but still demonstrate a deficiency in reading and who previously were retained in Kindergarten or First, Second or Third Grade for a total of two (2) years and have not met exceptional education criteria. A student who is promoted to Fourth Grade with a good cause exemption shall be provided intensive reading instruction and intervention informed by specialized diagnostic information and delivered through specific reading strategies to meet the needs of each student so promoted. The school district shall assist schools and teachers in implementing reading strategies that research has shown to be successful in improving reading among students with persistent reading difficulties.

(2) A request for good cause exemptions for a Third Grade student from the academic requirements established for promotion to Fourth Grade must be made consistent with the following:

(a) Documentation must be submitted from the student's teacher to the school principal which indicates that the promotion of the student is appropriate and is based upon the student's record. The documentation must consist of the good cause exemption being requested and must clearly prove that the student is covered by one (1) of the good cause exemptions listed in subsection (1)(a) through (e) of this section.

(b) The principal shall review and discuss the recommendations with the teacher and parents and make a determination as to whether or not the student should be promoted based on requirements set forth in this chapter. If the principal determines that the student should be promoted, based on the documentation provided, the principal must make the recommendation in writing to the school district superintendent, who, in writing, may accept or reject the principal's recommendation. The parents of any student promoted may choose that the student be retained for one (1) year, even if the principal and district superintendent determines otherwise.

SOURCES: Laws, 2013, ch. 495, § 6, eff from and after passage (approved April 17, 2013.)

§ 37-177-13. Actions required of school districts for grade 3 students not promoted to grade 4.

Beginning in the 2014-2015 school year, each school district shall take the following actions for retained Third Grade students:

(a) Provide Third Grade students who are not promoted with intensive instructional services, progress monitoring measures, and supports to remediate the identified areas of reading deficiency, including a minimum of ninety (90) minutes during regular school hours of daily, scientifically research-based reading instruction that includes phonemic awareness, phonics, fluency, vocabulary and comprehension, and other strategies prescribed by the school district, which may include, but are not limited to:

(i) Small group instruction;

(ii) Reduced teacher-student ratios;

(iii) Tutoring in scientifically research-based reading services in addition to the regular school day;

(iv) The option of transition classes;

(v) Extended school day, week or year; and

(vi) Summer reading camps.

(b) Provide written notification to the parent or legal guardian of any Third Grade student who is retained that the student has not met the proficiency level required for promotion and the reasons the student is not eligible for a good cause exemption. The notification must include a description of proposed interventions and supports that will be provided to the child to remediate the identified areas of reading deficiency. This notification must be provided to the parent or legal guardian in writing, in a format adopted by the State Board of Education in addition to report cards given by the teacher.

(c) Provide Third Grade students who are retained with a high-performing teacher, as determined by student performance data, particularly related to student growth in reading, above-satisfactory performance appraisals, and/or specific training relevant to implementation of this chapter.

(d) Provide parents and legal guardians of Third Grade students with a "Read at Home" plan outlined in a parental contract, including participation in regular parent-guided home reading.

SOURCES: Laws, 2013, ch. 495, § 7, eff from and after passage (approved April 17, 2013.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (a)(iii). The word "reasearch-based" was changed to "research-based." The Joint Committee ratified the correction at its August 1, 2013, meeting.

§ 37-177-15. Intensive acceleration class for certain students; purpose.

Each district may provide, where applicable, an intensive acceleration class for any student retained in Grade 3 who was previously retained in Kindergarten or Grades 1 through 3. The focus of the intensive acceleration class should be to increase a student's reading level at least two (2) grade levels in one (1) school year. The intensive acceleration class should provide reading instruction and intervention for the majority of student contact each day and incorporate opportunities to master the Grade 4 state standards in other core academic areas.

SOURCES: Laws, 2013, ch. 495, § 8, eff from and after passage (approved April 17, 2013.)

§ 37-177-17. Annual report regarding student progression and student retention and promotion.

(1) Within thirty (30) days of final State Board of Education approval of state accountability results, the school board of each school district must publish, in a newspaper having a general circulation within the school district, and report to the State Board of Education and the Mississippi Reading Panel the following information relating to the preceding school year:

(a) The provisions of this chapter relating to public school student progression and the school district's policies and procedures on student retention and promotion;

(b) By grade, the number and percentage of all students performing at each level of competency on the reading and math portion of the annual state accountability system and the number and percentage of students given an approved alternative standardized reading assessment and the percentage of these students performing at each competency level on said alternative standardized assessment;

(c) By grade, the number and percentage of all students retained in Kindergarten through Grade 8;

(d) Information on the total number and percentage of students who were promoted for good cause, by each category of good cause described in Section 37-177-11; and

(e) Any revisions to the school board's policy on student retention and promotion from the prior school year.

(2) The State Department of Education shall establish a uniform format for school districts to report the information required in subsection (1) of this section. The format must be developed with input from school boards and must be provided no later than ninety (90) days before the annual due date of the information. The department shall compile annually the required district information, along with state-level summary information, and report the information to the Governor, Senate, House of Representatives and general public.

SOURCES: Laws, 2013, ch. 495, § 9, eff from and after passage (approved April 17, 2013.)

§ 37-177-19. Implementation of chapter.

(1) The State Board of Education shall adopt such policies, rules and regulations as may be necessary for the implementation of this chapter.

(2) The State Department of Education shall provide such technical assistance and training of teachers/administrators as may be needed to aid local school districts in administering the provisions of this chapter.

(3) Each local school district must include provisions required by this chapter as an addition to the district's published handbook of policy for employees and students beginning in school year 2013-2014.

SOURCES: Laws, 2013, ch. 495, § 10, eff from and after passage (approved April 17, 2013.)

§ 37-177-21. Certain components of provisions of this chapter subject to legislative appropriation.

The provisions of this chapter which include components necessary to provide for teacher training, instructional materials, remedial education training and administration of an intensive literacy curriculum shall be subject to legislative appropriation.

SOURCES: Laws, 2013, ch. 495, § 11, eff from and after passage (approved April. 17, 2013.)

[illegible]

[illegible]

[illegible] school district [illegible]

[illegible] beginning [illegible]

[illegible]

[illegible]

[illegible] § 17, [illegible]

[illegible]

TITLE 39

LIBRARIES, ARTS, ARCHIVES AND HISTORY

Chapter 1. State Law Library; Legislative Reference Bureau 39-1-1
Chapter 3. Libraries and Library Commission 39-3-1
Chapter 5. Archives and History 39-5-1
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Chapter 31. Mississippi Bicentennial Celebration Commission [Repealed effective July 1, 2019] 39-31-1
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Chapter 35. Mississippi Sesquicentennial of the American Civil War Commission [Repealed effective July 1, 2015] 39-35-1
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CHAPTER 1

State Law Library; Legislative Reference Bureau

Sec.
39-1-1. State law library.
39-1-3 through 39-1-33. Repealed.
39-1-35. Legislative reference bureau.

§ 39-1-1. State law library.

(1) There shall be a State Library which shall render law library services to the Supreme Court and other state courts, to state officials and to the general public.

(2) The State Library shall be under the supervision and control of the Mississippi Supreme Court and the court shall be empowered to promulgate policies and procedures necessary to the efficient operation of the Library.

SOURCES: Codes, 1942, § 9037; Laws, 1940, ch. 135; Laws, 1989, ch. 321, § 1, eff from and after July 1, 1989.

§§ 39-1-3 through 39-1-33. Repealed.

Repealed by Laws, 1989, ch. 321, § 7, eff from and after July 1, 1989.

[Codes, 1942, §§ 9038-9053; Laws, 1940, ch. 155; Laws, 1958, ch. 483; Laws, 1964, ch. 542, § 8; Laws, 1987, ch. 305]

Editor's Note — Former §§ 39-1-3 through 39-1-33 pertained to operation of libraries, staffing, equipment and supervision thereof.

§ 39-1-35. Legislative reference bureau.

There is hereby created a legislative reference bureau, for the use of the members of the legislature, the governor, and the various departments, institutions and agencies of this state, as well as for a limited service for such citizens of this state as may desire to avail themselves of its reference facilities. The legislative reference bureau shall be under the joint jurisdiction of the house management committee and the senate contingent expense committee of the legislature.

The purpose of the said legislative reference bureau shall be:

(a) To assist the legislature of this state in the proper performance of its constitutional functions by providing its members with impartial and accurate information and reports concerning the legislative problems which come before them, and by providing digests showing the practices of other states and of foreign nations in dealing with similar problems;

(b) To secure information for the legislators of this state by cooperating with the legislative reference services in other states, and with the interstate reference bureau maintained by the American legislators' association and by the council of state governments;

(c) To furnish the members of the legislature of this state, copies of the legislation of other states, uniform laws, model bills, textbooks on the preparation of legislative measures, and such other information and material as may be of value to them in the preparation of bills for introduction into the legislature of this state.

The legislative reference bureau shall have a director, who shall be hired jointly by the house management committee and the senate contingent expense committee, and the duties of the director shall be prescribed jointly by the house management committee and the senate contingent expense committee.

The legislative reference bureau shall be maintained out of the contingent funds of each house of the legislature, with an equal amount to be contributed by each house.

SOURCES: Codes, 1942, § 9054; Laws, 1938, ch. 163; Laws, 1970, ch. 475, § 1; Laws, 1980, ch. 452, eff from and after July 1, 1980.

CHAPTER 3

Libraries and Library Commission

Article 1. Libraries 39-3-1
Article 3. Mississippi Library Commission 39-3-101
Article 5. Interstate Library Compact 39-3-201
Article 7. Library Materials Security 39-3-301
Article 9. Mississippi Statewide Library Development System Act of 1988 39-3-351

ARTICLE 1.

LIBRARIES.

SEC.
39-3-1. Establishment of libraries by counties and municipalities.
39-3-3. Funds for establishment and operation of libraries.
39-3-5. County library tax; additional funds for support, upkeep and maintenance.
39-3-7. Municipal library tax; additional funds for support, upkeep and maintenance.
39-3-8. Joint city-county public library systems.
39-3-9. Regional public library systems.
39-3-11. Participation by municipalities in county libraries, county regional library systems or city-county library systems.
39-3-13. Contracts by counties or municipalities for library services.
39-3-15. Library boards of trustees; qualifications, appointment, terms of office and compensation of members.
39-3-17. Library boards of trustees; organization; general powers and duties.
39-3-19. Library boards of trustees; annual reports.
39-3-20. Sabbatical leave for professional library staff.
39-3-21. Free use of libraries; reimbursements for services.
39-3-23. Construction of article.

§ 39-3-1. Establishment of libraries by counties and municipalities.

It is hereby declared to be the policy of this state to allow and promote the establishment and development of free public library service throughout this state as a part of its provisions for public education. "Public library" shall mean a library which provides customary services, without charge, to all the residents of a county, city or region and is supported whole or in part by public funds. Reasonable reimbursements may be collected for special library services provided these are determined in advance and in writing by the administrative board of trustees.

The board of supervisors of any county in the State of Mississippi, or other governing bodies of the counties of this state, and municipalities and towns, through their governing bodies, may establish and maintain or aid in establishing and maintaining free public libraries for the use of the citizens of the respective counties, municipalities or towns, either separately or in connection with free public libraries already established therein. For said purpose said governing body may acquire the necessary real estate either by purchase, gift or donation and may erect the necessary buildings thereon.

SOURCES: Codes, 1942, § 6200; Laws, 1938, ch. 289; Laws, 1988, ch. 589, § 8, eff from and after July 1, 1988.

Cross References — Power of municipalities to maintain public libraries, see § 21-37-19.

County aid for maintenance of public school libraries, see §§ 37-55-1 et seq.

ATTORNEY GENERAL OPINIONS

Section 39-3-1 prohibits public libraries from charging a fee and/or an annual renewal fee for a library card. McCartney, October 11, 1996, A.G. Op. #96-0706.

Using very broad parameters, the Library Commission and its staff determine what constitutes a library for the exercise of the authority of the Library Commission. Pritchard, Dec. 10, 1999, A.G. Op. #99-0573.

§ 39-3-3. Funds for establishment and operation of libraries.

Where any public library or public library system is established under this article, either by the county board of supervisors or the governing body of a municipality, the cost of purchasing land, erecting buildings and equipping and maintaining such public library or public library system shall be paid for in whole out of the general funds of the county or municipality.

SOURCES: Codes, 1942, § 6201; Laws, 1938, ch. 289; Laws, 1958, ch. 479; Laws, 1986, ch. 400, § 21; Laws, 1988, ch. 589, § 9, eff from and after July 1, 1988.

Cross References — Authorization of a county board of supervisors to appropriate funds towards support of public school libraries, see § 37-55-5.

Duties of Mississippi library commission, see § 39-3-107.

Creation of trusts for founding public institutions, see §§ 39-9-1 et seq.

ATTORNEY GENERAL OPINIONS

Expansion of joint city-county library system is a proper purpose for county bonding. Haas, March 6, 1998, A.G. Op. #98-0090.

A proposal for the Mississippi Power Company to add a line item to a library's monthly billing that would be equal to the savings experienced by the library from the replacement of its heating and air-conditioning system would violate this section. Williams, February 19, 1999, A.G. Op. #99-0068.

§ 39-3-5. County library tax; additional funds for support, upkeep and maintenance.

(1) Any county which supports a public library or public library system may, by order of the board of supervisors of such county, in their discretion, levy a four (4) mill tax on all taxable property within the county to be used for

the support, upkeep and maintenance of any public library or public library system located in said county.

(2) The taxes levied under this section shall be excluded from the revenue increase limitation imposed pursuant to Section 27-39-321.

(3) In addition to the levy herein authorized, the board of supervisors of any county may, in their discretion, make contributions from any available funds for the support, upkeep and maintenance of any public library or public library system located in such county.

SOURCES: Codes, 1942, § 6200-01; Laws, 1946, ch. 203; Laws, 1950, ch. 234, §§ 1, 2; Laws, 1952, ch. 206, §§ 1, 2; Laws, 1958, ch. 229, §§ 1, 2; Laws, 1962, ch. 258; Laws, 1968, ch. 383, § 1; Laws, 1986, ch. 400, § 22; Laws, 1988, ch. 589, § 10, eff from and after July 1, 1988.

Cross References — Power of municipalities to maintain public libraries, see § 21-37-19.

County aid for maintenance of public school libraries, see §§ 37-55-1 et seq.

ATTORNEY GENERAL OPINIONS

Expansion of joint city-county library system is a proper purpose for county bonding. Haas, March 6, 1998, A.G. Op. #98-0090.

§ 39-3-7. Municipal library tax; additional funds for support, upkeep and maintenance.

(1) Any municipality which supports a public library or public library system may, by order of the governing authorities of such municipality, in their discretion, levy a three (3) mill tax on all taxable property within the municipality to be used for the support, upkeep and maintenance of any public library or public library system located in said municipality.

(2) The taxes levied under this section shall be excluded from the revenue increase limitation imposed pursuant to Section 27-39-321.

(3) In addition to the levy herein authorized, the governing authorities of any municipality may, in their discretion, make contributions from any available funds for the support, upkeep and maintenance of any public library or public library system located in such municipality.

SOURCES: Codes, 1942, § 6200-01; Laws, 1946, ch. 203; Laws, 1950, ch. 234, §§ 1, 2; Laws, 1952, ch. 206, §§ 1, 2; Laws, 1958, ch. 229, §§ 1, 2; Laws, 1962, ch. 258; Laws, 1968, ch. 383, § 1; Laws, 1984, ch. 334; Laws, 1988, ch. 589, § 11, eff from and after July 1, 1988.

Cross References — Power of municipalities to maintain public libraries, see § 21-37-19.

County aid for maintenance of public school libraries, see §§ 37-55-1 et seq.

§ 39-3-8. Joint city-county public library systems.

The board of trustees of any municipal public library, or any group of municipal public libraries, and the board of trustees of any county public library system, may, with the consent of the governing body of said municipality, or municipalities, and with the consent of the board of supervisors of said county, contract with each other or among themselves, to create, maintain and support a joint city-county public library system. Such a contract shall contain such terms, agreements and conditions as may be agreed upon by the board of trustees of the municipal public library, or the public library boards of trustees of the several municipalities, and by the board of trustees of the county public library.

SOURCES: Laws, 1988, ch. 589, § 12, eff from and after July 1, 1988.

Cross References — Application of this section to the definition of "public library system" for purposes of the statewide library development system, see § 39-3-353.

ATTORNEY GENERAL OPINIONS

Pursuant to Section 39-3-8 the terms of the trustees are calculated from the time they were originally appointed, even though the city and the county did not formally execute a contract establishing a joint city/county library until January 12, 1994. Section 39-3-15(6) limits terms of trustees in counties of over 20,000 to two consecutive terms of office. Wegener, October 25, 1996, A.G. Op. #96-0682.

§ 39-3-9. Regional public library systems.

Two (2) or more counties by action of their boards of supervisors may join in establishing and maintaining a regional public library system under the terms of a contract to which all of the participating counties agree. The expenses of the regional public library systems shall be apportioned between or among the counties concerned on such basis as shall be agreed upon in the contract. The public library system headquarters building shall be located at a place in one of the counties to be agreed upon by the boards of supervisors of the various counties in the regional public library system.

SOURCES: Codes, 1942, § 6202; Laws, 1938, ch. 289; Laws, 1988, ch. 589, § 13, eff from and after July 1, 1988.

Cross References — Application of this section to the definition of "public library system" for purposes of the statewide library development system, see § 39-3-353.

ATTORNEY GENERAL OPINIONS

The board of aldermen of a municipality may enter into a contract to establish and maintain a city/county library and the contract may be automatically annually renewed for the term of the board; a contract which extends beyond the term of the present board or a majority of the members thereof is not void but is voidable at the option of the new board. Williams, August 14, 1998, A.G. Op. #98-0457.

The budgets and any proposed budgets of regional libraries are public records subject to inspection. Gough, Sept. 20, 2002, A.G. Op. #02-0479.

There is no statutory requirement that boards of trustees of public libraries must publish a proposed budget or a budget that has been adopted in a newspaper. Gough, Sept. 20, 2002, A.G. Op. #02-0479.

§ 39-3-11. Participation by municipalities in county libraries, county regional library systems or city-county library systems.

When a county public library, city-county public library system or regional public library system shall have been established under this article, any municipality which is aiding in maintaining or supporting a public library, or which desires to aid in providing public library service for that portion of the county's residents which reside within the municipality, may participate in said county public library, city-county public library system or regional public library system. This participation shall be on such terms as may be agreed upon among the governing body of the municipality, the board of trustees of the existing municipal public library and the board of trustees of the county public library, city-county public library system or regional public library system.

SOURCES: Codes, 1942, § 6203; Laws, 1938, ch. 289; Laws, 1962, ch. 335, § 1; Laws, 1988, ch. 589, § 14, eff from and after July 1, 1988.

Cross References — Application of this section to the definition of "public library system" for purposes of the statewide library development system, see § 39-3-353.

ATTORNEY GENERAL OPINIONS

The board of aldermen of a municipality may enter into a contract to establish and maintain a city/county library and the contract may be automatically annually renewed for the term of the board; a contract which extends beyond the term of the present board or a majority of the members thereof is not void but is voidable at the option of the new board. Williams, August 14, 1998, A.G. Op. #98-0457.

§ 39-3-13. Contracts by counties or municipalities for library services.

(1) The governing body of any municipality may contract with the board of trustees of any established public library or public library system to receive the services of that established public library or public library system.

(2) The board of supervisors of any county in the state may, with the consent of the board of trustees of an established public library system, contract for library service from any established public library system.

(3) The board of trustees of any regional public library system may contract for such region to receive library service from any established public library system.

(4) There shall be one (1) board of trustees in each public library system with the administrative powers and responsibilities prescribed in Section 39-3-17, Mississippi Code of 1972. Any other board of trustees within such library system shall serve in a purely advisory capacity to said administrative board. The administrative board shall be designated by contract among all such boards of trustees within the system. Advisory boards may contract with administrative boards to provide local services and policies as may be mutually agreed on. In the event an agreement cannot be reached among all such boards of trustees, the matter shall be submitted to a negotiating committee comprised of the following: two (2) persons selected by each of the boards of trustees involved in the matter plus two (2) persons selected by the Mississippi Library Commission.

(5) Contracts for library services shall include, but not limited to: (a) name of library system; (b) definition of library service area; (c) name of all parties and responsibilities regarding participation in the library system, including but not limited to funding of the library system and maintenance of facilities; (d) appointment of board of trustees with the naming of the administrative board and the stated responsibilities of said boards; (e) eligibility and criteria for participation of new libraries in the library system; and (f) a stated contract review and renewal process. The contract shall provide for the dissolution of such library system including, but not limited to, the definition of assets and the procedure for the distribution of such assets.

SOURCES: Codes, 1942, § 6204; Laws, 1938, ch. 289; Laws, 1944, ch. 200, § 1; Laws, 1962, ch. 335, § 2; Laws, 1988, ch. 589, § 15, eff from and after July 1, 1988.

Cross References — Power of municipalities to maintain public libraries, see § 21-37-19.

Direction that the trustees of the administrative board designated pursuant to this section meet and organize their public library system, see § 39-3-17.

Mississippi Library Commission generally, see §§ 39-3-101 et seq.

Application of this section to the definition of "administrative board" and "public library system" for purposes of the statewide library development system, see § 39-3-353.

ATTORNEY GENERAL OPINIONS

The board of aldermen of a municipality may enter into a contract to establish and maintain a city/county library and the contract may be automatically annually renewed for the term of the board; a contract which extends beyond the term of the present board or a majority of the members thereof is not void but is voidable at the option of the new board. Williams, August 14, 1998, A.G. Op. #98-0457.

An advisory board of a public library in consultation with the library director may receive private gifts and donations which are designated for specific purposes for the support and maintenance of a library, such as funds for repair of a library roof. Gough, Feb. 22, 2002, A.G. Op. #02-0072.

§ 39-3-15. Library boards of trustees; qualifications, appointment, terms of office and compensation of members.

(1)(a) The management and control of a county or municipal public library shall be vested in a board of five (5) trustees, who shall be appointed by the governing authorities of the county or municipality. The first appointments shall be for the terms of one (1), two (2), three (3), four (4) and five (5) years respectively, and thereafter, a trustee shall be appointed to serve five (5) years.

(b) Notwithstanding the provisions of paragraph (1)(a) of this section, the board of supervisors of any county that borders on the Gulf of Mexico, in which Interstate 10 intersects U.S. Highway 49 and that operates a county library system may appoint, in its discretion, six (6) trustees to the county public library board. If the board of supervisors of any such county elects to appoint six (6) members to the board of trustees, the first appointments shall be for the terms of one (1), two (2), three (3), four (4), five (5) and six (6) years respectively, and thereafter a trustee shall be appointed to serve six (6) years.

(2) When five (5) counties support a regional public library system, the management and control of the regional public library system shall be vested in a board of five (5) trustees. The trustees shall be appointed by the governing authorities of the counties that support the regional public library system.

(3) In a regional public library system supported by less than five (5) counties, the distribution of the membership on the board of trustees shall be determined by agreement among the counties that support the regional public library system.

(4) In a regional public library system of more than five (5) counties, one (1) member of the board of trustees shall be appointed by the governing authority of each county supporting the regional public library system. In the first appointments to the regional public library system board of trustees, five (5) members shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years respectively, and any number of trustees above five (5) shall be appointed for terms of one (1) year. Thereafter, all trustees shall be appointed annually to serve five (5) years.

(5) The management and control of a city-county public library system shall be vested in a board of trustees, the number of which shall be agreed upon by the board of trustees of the governing body of the municipality, or municipalities, and with the consent of the board of supervisors which have contracted with each other or among themselves, to create, maintain and support a joint city-county library system. The term of each trustee shall be for a period of five (5) years. Initial appointments to the city-county board shall be made in a manner determined by the counties and municipalities involved so that terms expire on a staggered basis.

(6) Each trustee shall be a resident and qualified elector of the municipality, county or region represented by said trustee. Trustees shall be limited to two (2) consecutive terms of office in counties of over twenty thousand

(20,000) population; however, there shall be no limit on the number of terms served by a trustee. In counties of less than twenty thousand (20,000) population, there shall be no limit on the number of terms served by any trustee holding office on July 1, 1988; provided, that said limitation shall be applicable to new trustees appointed subsequent to July 1, 1988. Vacancies on the board of trustees of a county public library, municipal public library, regional public library system or city-county public library system shall be filled for unexpired terms in the same manner in which members of the board were first appointed. Any trustee who shall not attend four (4) consecutive meetings of the board shall be subject to removal by the governing authority. No trustee shall receive a salary or other compensation for his service; provided, however, that all trustees shall be reimbursed for their necessary traveling expenses and mileage incident to their attendance upon the business of the board, as provided in Section 25-3-41, Mississippi Code of 1972.

SOURCES: Codes, 1942, § 6205; Laws, 1938, ch. 289; Laws, 1952, ch. 207; Laws, 1977, ch. 312; Laws, 1986, ch. 514; Laws, 1988, ch. 589, § 16; Laws, 1994, ch. 364, § 1, eff from and after July 1, 1994.

ATTORNEY GENERAL OPINIONS

Pursuant to Miss. Code Section 39-3-15, management and control of municipal public library is vested in board of trustees; therefore, board of trustees has responsibility to establish policy and procedures for preservation and exhibition of rare or scholarly books and papers. Ellis, Apr. 29, 1993, A.G. Op. #93-0299.

Trustees who were in office on July 1, 1988 are eligible to serve two consecutive terms, which includes any time they served in office before July 1, 1988, in accordance with 39-3-15(6). McCartney, August 10, 1993, A.G. Op. #93-0549.

While Section 39-3-15(6) enumerates certain qualifications and limitations on board membership, there is no statutory directive that dictates term length for regional board membership for systems supported by less than five counties, nor is there any provision under Chapter 3, Title 39 of the Mississippi Code that prohibits appointment of county library board member to concurrent service on regional library board. Williams, Feb. 1, 1994, A.G. Op. #93-0714.

Pursuant to Section 39-3-8 the terms of the trustees are calculated from the time they were originally appointed, even though the city and the county did not formally execute a contract establishing a joint city/county library until January 12, 1994. Section 39-3-15(6) limits terms of trustees in counties of over 20,000 to two consecutive terms of office. Wegener, October 25, 1996, A.G. Op. #96-0682.

The director of a library can, with the authorization, may change a part-time position to a full-time one and is not bound by legal duty to offer any particular position to a former employee. Hurst, Nov. 21, 1997, A.G. Op. #97-0713.

Trustees of libraries in counties of over twenty thousand population are limited to two full consecutive terms of office, but service by a trustee in a predecessor's unexpired term is not included in this calculation. Schule, February 6, 1998, 1998 Miss. AG LEXIS 99.

Trustees of libraries in counties of over twenty thousand population are limited to two full consecutive terms of office, but service by a trustee in a predecessor's unexpired term is not included in this calculation. Schule, February 6, 1998, A.G. Op. # 98-0065.

There is no requirement that advisory boards of trustees within a regional library system be or remain as signatories to the agreement by the governmental entities creating the regional system. Williams, Apr. 1, 2005, A.G. Op. 05-0100.

Once a regional library system is established, and an administrative board of trustees is appointed, the membership and terms of membership of remaining boards of trustees within the system must be consistent with the requirements of Section 39-3-15, absent any provision which may provide otherwise. Williams, Apr. 1, 2005, A.G. Op. 05-0100.

§ 39-3-17. Library boards of trustees; organization; general powers and duties.

(1) The trustees of the administrative board designated pursuant to Section 39-3-13(4), immediately after their appointment or election, shall meet and organize by the election of such officers as they deem necessary. They shall (a) adopt such bylaws, rules and regulations for their own guidance and for the government of the library as they deem expedient; (b) meet at least once in each quarter; (c) have the supervision, care and custody of all property of the library, including the rooms or buildings constructed, leased or set apart therefor; (d) employ a library system director, prescribe his/her duties, fix his/her compensation, and remove him/her for cause; (e) employ, upon the recommendation of the library system director, such other staff as may be necessary and fix their compensation; (f) submit annually to the governing body a budget containing estimates for the ensuing year; (g) have exclusive control of the finances of the library system; (h) accept such gifts of money or property for library purposes as they deem expedient; (i) on recommendation of library system director purchase books, periodicals, maps, equipment, insurance and supplies for the library system; (j) dispose of equipment and discarded library materials as provided in Section 19-7-5, Mississippi Code of 1972; and (k) do all other acts necessary for the orderly and efficient management and control of the library system. But no expenditure made or contracted by the trustees shall be binding on any county or municipality so as to require any payment in excess of funds made available for library purposes under this article.

(2) There shall be one (1) library director for each library system. Said library system director shall have such educational qualifications as are prescribed by the Mississippi Library Commission. The library system director shall administer and establish procedures according to policies established by the administrative board of trustees. His or her duties shall include: (a) employment of staff with the approval of the board of trustees; (b) prescription of staff duties; (c) removal of staff for cause; (d) preparation of the budget; (e) financial and statistical management; (f) reporting to board of trustees; and (g) other acts necessary for the orderly and efficient administration of the library system.

(3) In the event that a determination is made by the library system director to remove a staff member for cause, written notice of such decision shall be given to such staff member. A staff member who has received such notice shall be entitled to:

(a) Written notice of the reasons for such action, together with a summary of the factual basis therefor, which notice shall be given at least five (5) days prior to any hearing;

(b) An opportunity for a hearing before the board of trustees at which to present matters relevant to the reasons given for the decision, including any reasons alleged by the employee to be the reason for such action;

(c) Receive a fair and impartial hearing before the board;

(d) Be represented by legal counsel, at his own expense.

If the staff member does not request a hearing, the decision of the director shall be final.

(4) On at least a bi-monthly basis, the board of supervisors of each county and the governing authority of each municipality supporting a public library system shall transmit its warrant or warrants constituting one-sixth (1/6) of the annual appropriation for the support and maintenance thereof to the library director of such system. All such warrants shall be deposited in one or more public depositories previously selected by the board of trustees of the library system. The said board of trustees shall, by appropriate order spread upon its minutes, authorize the library director to expend such funds for lawful purposes only and in accordance with its annual budget previously adopted. All such funds shall be placed in the depository or depositories selected by the administrative library board of trustees in the same manner as provided in Section 27-105-305 for the selection of county depositories, provided that the selection shall be effective on July 1 of each year. Such depository shall place on deposit with the library director the same securities as required in Section 27-105-315.

SOURCES: Codes, 1942, § 6206; Laws, 1938, ch. 289; Laws, 1988, ch. 589, § 17, eff from and after July 1, 1988.

Cross References — Single board of trustees in each public library system having the administrative powers and responsibilities prescribed in this section, see § 39-3-13.

Duties of Mississippi library commission, see § 39-3-107.

Definitions relating to Libraries and Library Commissions, see § 39-3-353.

ATTORNEY GENERAL OPINIONS

Proposed schedule wherein publication for library fund depositories bids will begin reasonable period of time prior to statutorily mandated contract date of July 1 of each year, is appropriate and proper application of depository laws to public library systems. Austin, Feb. 7, 1990, A.G. Op. #90-0078.

Library board of municipal library acting only in advisory capacity may not concurrently serve as administrative board for regional library system; city may, however, withdraw from regional system and operate entirely local municipal library, if regional system contract allows. Minnix, Dec. 16, 1992, A.G. Op. #92-0906.

If a library board accepts a donation of fine art prints and decides to sell the prints, it must hold a public sale, either by auction or advertising and bidding, and in the latter case, the board may reject all bids if they are not acceptable. Austin, March 6, 1998, A.G. Op. #98-0116.

A city/county library system does not have authority to expend funds, either its publicly raised funds or donated funds, for an advertising and public relations campaign to support its fund-raising efforts. Clark, Sept. 14, 2001, A.G. Op. #01-0540.

An advisory board of a public library in consultation with the library director may receive private gifts and donations which are designated for specific purposes for the support and maintenance of a library, such as funds for repair of a library roof. Gough, Feb. 22, 2002, A.G. Op. #02-0072.

Advisory boards of trustees within a regional library system act in an advisory capacity and do not possess the administrative powers and responsibilities set forth in Section 39-3-17, which belong to the administrative board. Williams, Apr. 1, 2005, A.G. Op. 05-0100.

§ 39-3-19. Library boards of trustees; annual reports.

At the close of each year the administrative board of trustees of every public library system shall make a report to the governing body in the county or counties or municipality or municipalities wherein the board serves, showing the condition of the trust during the year, the sums of money received for the library fund from taxes and other sources, the sums of money expended and the purposes of the expenditures, the number of books and periodicals on hand, the number added during the year, the number withdrawn, the number loaned out, and such other statistics and information and such suggestions as the administrative board of trustees deems of public interest. A copy of this report shall be filed in the State Library Commission.

SOURCES: Codes, 1942, § 6207; Laws, 1938, ch. 289; Laws, 1988, ch. 589, § 18, eff from and after July 1, 1988.

Cross References — State Library Commission, see §§ 39-3-101 et seq.

§ 39-3-20. Sabbatical leave for professional library staff.

(1) Professional library staff members of a public library shall be eligible for sabbatical leave for the purpose of professional improvement, for not more than one (1) year immediately following any six (6) or more consecutive years of active service in the libraries of this state. Absence on sick leave shall not be deemed to interrupt the active service herein provided for. Sabbatical leave for professional library staff members shall only be granted with the approval of the administrative board of trustees.

(2) Applications for sabbatical leave may be made to the administrative board of trustees of such library system, with the approval of the library director of such system. Any person who is granted a sabbatical leave and who fails to comply with the provisions of such leave may have his/her leave terminated by the administrative board of trustees. No person on sabbatical leave can be denied any regular increment of increase in salary because of absence on sabbatical leave. Service on sabbatical leave shall count as active service for the purpose of retirement and contributions to the retirement fund shall be continued.

(3) In no instance shall leave be granted unless there is a contract providing for continued service, after expiration of the leave, in the library system where the person is employed.

(4) Each person granted sabbatical leave may receive and be paid compensation up to the rate of fifty percent (50%) of such person's annual salary. Compensation payable to persons on sabbatical leave shall be paid at the same

time and in the same manner salaries of the other members of the library system are paid.

SOURCES: Laws, 1988, ch. 389, § 19, eff from and after July 1, 1988.

§ 39-3-21. Free use of libraries; reimbursements for services.

Every public library or public library system established or maintained under this article shall be free for the use of the residents of the territory included within the library service area, subject to such reasonable rules and regulations as the administrative board of trustees finds necessary. Reasonable reimbursements may be collected for special library services, provided these are determined in advance and in writing by the administrative board of trustees.

SOURCES: Codes, 1942, § 6208; Laws, 1938, ch. 289; Laws, 1988, ch. 589, § 20, eff from and after July 1, 1988.

§ 39-3-23. Construction of article.

This article shall not be construed to abrogate the force of charter provisions or any local act governing existing public libraries. This article shall be construed as additional and supplemental to subsection (j) of Section 19-5-93, Mississippi Code of 1972.

SOURCES: Codes, 1942, § 6209; Laws, 1938, ch. 289.

ARTICLE 3.

MISSISSIPPI LIBRARY COMMISSION.

SEC.
39-3-101. Creation; composition; qualifications, appointment and terms of office of members.
39-3-103. Organizational meeting; officers.
39-3-105. Director.
39-3-107. General powers and duties of commission.
39-3-109. How funds drawn.
39-3-111. Acceptance of gifts and federal funds.

§ 39-3-101. Creation; composition; qualifications, appointment and terms of office of members.

There is hereby created a board of commissioners of the Mississippi Library Commission to be composed of five members appointed by the governor with overlapping terms, the members of the first board to be appointed one for one year, one for two years, one for three years, one for four years, one for five years, and their successors each to be appointed for five year terms, each member to serve until his successor is appointed. Two members shall be appointed by the governor from the state at large. Two members shall be appointed by the governor from a list of not less than six names submitted by the Mississippi library association, one of whom shall be a librarian who is a graduate of a library school accredited by the American Library Association and actively engaged in full time library work at the time of the appointment and one of whom shall be, at time of the appointment, a member of a legally organized board of trustees of a Mississippi free public library; and one member shall be the president of the Mississippi Federation of Women's Clubs, or a member of said federation recommended by her; and which federation member shall, when appointed, serve a full term as herein provided for members to serve under a staggered term basis, and the successor to the federation member shall be the president of the federation then serving, or a member of the federation recommended by her, when the term of the federation member shall expire; and after the appointment of a federation member to the board, and when her term as a member thereof shall expire, each succeeding member of the federation who becomes a member of the board shall serve a full term under the provisions of this article. Vacancies created by resignation shall be filled by appointment for the unexpired term.

SOURCES: Codes, 1942, § 6210-01; Laws, 1950, ch. 363, §§ 1, 2, eff from and after June 30, 1950.

Cross References — Application of this section to the definition of "commission" for purposes of the statewide library development system, see § 39-3-353.

§ 39-3-103. Organizational meeting; officers.

Within thirty days after the selection and appointment of the first board of commissioners the members shall meet at the headquarters of the Mississippi Library Commission in Jackson, Mississippi, and organize, setting up such policies as are deemed necessary and not inconsistent with this article. They shall elect annually from their membership a chairman and a secretary.

SOURCES: Codes, 1942, § 6210-02; Laws, 1950, ch. 363, § 3, eff from and after June 30, 1950.

§ 39-3-105. Director.

(1) The board of library commissioners shall elect a director whose term of office shall be for a period of four years, unless, for good cause shown, the board of library commissioners removes said director.

(2) The director shall be chosen outside the membership of the board of library commissioners, and shall be a trained, experienced librarian holding a degree from a college or university of recognized standing. The director shall have completed the required course covered in a school of library service accredited by the American Library Association and shall have had at least two years' experience as an administrative librarian or director of a state or public library. The director shall keep an accurate record of all accounts and financial transactions of the board, shall have charge of organizing new libraries and

directing library development in the state, so as to give and furnish every citizen and resident of the state free library service of the highest quality consistent with modern methods and as may be justified by financial and economic conditions, and shall have all general administrative duties incident to carrying on the work of the Mississippi Library Commission. All necessary and actual traveling expense incurred by the members of the Mississippi Library Commission, and by the director or any member of the staff, acting under the authority and direction of the board of commissioners, while on business for the Mississippi Library Commission, shall be paid from the funds appropriated and made available for use, maintenance and operation of the Mississippi Library Commission. In addition to the director, the board of library commissioners may employ, upon recommendations of the director, such other persons as may be deemed necessary to carry out the purposes of this article.

SOURCES: Codes, 1942, § 6210-03; Laws, 1950, ch. 363, §§ 4, 5, eff from and after June 30, 1950.

§ 39-3-107. General powers and duties of commission.

The Mississippi Library Commission, upon request, shall give advice to all schools, public and other libraries, and to all communities which may propose to establish them, as to the best means of establishing and maintaining such libraries, the selection of books, cataloging and other details of library management. It may also purchase and operate traveling libraries, and circulate such traveling libraries within the state among communities, libraries, schools, colleges, universities, library associations, study clubs, charitable and penal institutions free of cost, except for transportation, and establish county and regional libraries and use any funds, separate and apart from the general library commission funds, which might come into its custody from any source, for such purpose, and for the purpose of establishing, stimulating, increasing, improving and equalizing library service in the various counties within the state, under such rules for safekeeping, preservation, care, handling of the books and allocation of the funds as may be fixed by the commission. It may publish such lists and circulars of information as it shall deem necessary, and it may also conduct a summer school of library instruction and a clearinghouse for periodicals for free gifts to local libraries. The commission shall each year obtain from all libraries in the state reports showing the condition, growth, development and manner of conducting such libraries, together with such other facts and statistics regarding the same as may be deemed of public interest by the commission, and it shall be the duty of the board of the Mississippi Library Commission to make an annual report to the Legislature of the facts of public interest and value in relation to the work of the commission. The Mississippi Library Commission shall adopt rules and regulations relative to the allocation of state aid funds to public library systems.

SOURCES: Codes, 1930, § 5391; 1942, §§ 6210-04, 6213; Laws, 1926, ch. 180; Laws, 1940, ch. 143; Laws, 1950, ch. 363, § 6; Laws, 1970, ch. 358, § 1, ch. 359, § 1; Laws, 1988, ch. 589, § 21, eff from and after July 1, 1988.

Cross References — County library commission, see § 37-55-1.

Organization, powers, and duties of board of trustees of a county or municipal library, see § 39-3-17.

Duties of the Library Commission with respect to the statewide library development system, see §§ 39-3-351 et seq.

ATTORNEY GENERAL OPINIONS

The Mississippi Library Commission has the authority to accept funds and donated and/or obsolete property and to use such donated funds and property for the purpose of establishing, stimulating, increasing, improving and equalizing library service in counties within the state; such funds and other property can come from any source other than from the general fund appropriation of the Library Commission or purchased from funds derived from the general fund appropriation. Pritchard, Dec. 10, 1999, A.G. Op. #99-0573.

The Mississippi Library Commission does not have authority to alter the total amount of state aid funds to be distributed among the qualified public library systems. Greene, Jan. 24, 2003, A.G. Op. 03-0022.

The Mississippi Library Commission may specify the total amount of state aid funds, including Personnel Incentive Grant Program funds, designated for public library systems, unless and until the Mississippi legislature specifically designates a total amount of state aid funds for public library systems or a total amount of Personnel Incentive Grant Program funds in the appropriation for the Commission; opinion 03-0022 to Richard Greene, January 24, 2003 is withdrawn. Smith, May 2, 2003, A.G. Op. 03-0181.

§ 39-3-109. How funds drawn.

The board of commissioners of the Mississippi Library Commission may from time to time as needed draw an order signed by the director and the chairman in favor of any party to whom money is due stating in such order what the money is to be used for, and, upon presentation of such order, the state auditor shall draw his warrant upon the state treasurer for the amount therefor not to exceed the amount of the appropriation for the purposes of the Mississippi Library Commission.

SOURCES: Codes, 1942, § 6210-05; Laws, 1950, ch. 363, § 7, eff from and after June 30, 1950.

§ 39-3-111. Acceptance of gifts and federal funds.

The board of commissioners of the Mississippi Library Commission may accept in the name of the state gifts of money, real estate, books, periodicals, or other property for the purpose of promoting the work of the Mississippi Library Commission, and may accept and administer any funds which might be provided by the federal government for library purposes.

SOURCES: Codes, 1942, § 6210-06; Laws, 1950, ch. 363, § 8, eff from and after June 30, 1950.

ATTORNEY GENERAL OPINIONS

The Mississippi Library Commission has the authority to accept funds and donated and/or obsolete property and to use such donated funds and property for the purpose of establishing, stimulating, increasing, improving and equalizing library service in counties within the state; such funds and other property can come from any source other than from the general fund appropriation of the Library Commission or purchased from funds derived from the general fund appropriation. Pritchard, Dec. 10, 1999, A.G. Op. #99-0573.

ARTICLE 5.

INTERSTATE LIBRARY COMPACT.

SEC.	
39-3-201.	Enactment and terms of compact.
39-3-203.	Agreements for construction or maintenance of interstate libraries; compliance with other governing laws.
39-3-205.	State library agency defined.
39-3-207.	Eligibility for aid of district partly within state.
39-3-209.	Compact administrator and deputy administrators.
39-3-211.	Notices in event of withdrawal from compact.

§ 39-3-201. Enactment and terms of compact.

The Interstate Library Compact is hereby enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

INTERSTATE LIBRARY COMPACT

Article I. Policy and Purpose

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis, and to authorize cooperation and sharing among localities, states and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

Article II. Definitions

As used in this compact:

(a) "Public library agency" means any unit or agency of local or state government operating or having power to operate a library.

(b) "Private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library.

(c) "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

Article III. Interstate Library Districts

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

(c) If a library agreement provides for joint establishment, maintenance or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

1. Undertake, administer and participate in programs or arrangements for securing, lending or servicing of books and other publications, any other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof.
2. Accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and receive, utilize and dispose of the same.
3. Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.
4. Employ professional, technical, clerical, and other personnel, and fix terms of employment, compensation and other appropriate benefits; and where desirable, provide for the inservice training of such personnel.

5. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.

6. Construct, maintain and operate a library, including any appropriate branches thereof.

7. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

Article IV. Interstate Library Districts, Governing Board

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

Article V. State Library Agency Cooperation

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

Article VI. Library Agreement

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

1. Detail the specific nature of the services, programs, facilities, arrangements or properties to which it is applicable.

2. Provide for the allocation of costs and other financial responsibilities.

3. Specify the respective rights, duties, obligations and liabilities of the parties.

4. Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to such agency by the constitution or statutes of its state.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved, and approved in accordance with Article VII of this compact.

Article VII. Approval of Library Agreements

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

Article VIII. Other Laws Applicable

Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

Article IX. Appropriations and Aid

(a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

Article X. Compact Administrator

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

Article XI. Entry Into Force and Withdrawal

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(b) This compact shall continue in force with respect to a party state and remain binding upon such state until six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

Article XII. Construction and Severability

This compact shall be liberally construed so as effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SOURCES: Codes, 1942, § 6209-21; Laws, 1970, ch. 459, § 1, eff from and after passage (approved April 6, 1970).

Cross References — Agreements for construction or maintenance of interstate libraries, see § 39-3-203.

Comparable Laws from other States — Alabama: Code of Ala. § 41-8-21.
Alabama: Code of Ala. § 41-8-21.
Arkansas: A.C.A. § 13-2-602.
Colorado: C.R.S. 24-60-1501 — 24-60-1507.
Connecticut: Conn. Gen. Stat. § 11-38.
Florida: Fla. Stat. § 257.28.
Georgia: O.C.G.A. §§ 20-5-60 — 20-5-65.
Illinois: 45 ILCS 25/0.01 — 25/4.
Indiana: Burns Ind. Code Ann. § 36-12-13-2 et seq.
Iowa: Iowa Code §§ 256.70 through 256.74.
Louisiana: La. R.S. 25:631.
Maine: 27 M.R.S. §§ 141 — 152, 181 — 186.
Maryland: Md. Education Code Ann. §§ 25-301 / 25-303.
Massachusetts: ALM Spec L ch. S103, § 1.
Minnesota: Minn. Stat. §§ 134.21.
Montana: Mont. Code Anno., §§ 22-1-601, 22-1-602.
New Hampshire: 16 RSA 201-B:1 — 201-B:6.
New Mexico: NM Stat. Ann. §§ 18-2-19 — 18-2-22.
New York: NY CLS Unconsol Ch 111-B, § 1.
North Carolina: N.C. Gen. Stat. §§ 125-12 — 125-17.
North Dakota: N.D. Cent. Code, § 54-24.1-01.
Ohio: ORC Ann. 3375.83.
Oregon: ORS § 357.330 — 357.370.
Rhode Island: R.I. Gen. Laws § 29-5-1.
South Dakota: S.D. Codified Laws § 14-7-12.
Vermont: 22 V.S.A. §§ 21 through 44.
Virginia: Va. Code Ann. § 42.1-75.
Washington: Rev. Code Wash. (ARCW) §§ 27.18.010 — 27.18.050.
West Virginia: W. Va. Code §§ 10-1A-1 — 10-1A-6.
Wyoming: Wyo. Stat. §§ 9-2-1026.8 -- 9-2-1026.13.

§ 39-3-203. Agreements for construction or maintenance of interstate libraries; compliance with other governing laws.

No county, municipality, or other political subdivision of this state shall be party to a library agreement which provides for the construction or maintenance of a library pursuant to Article III, subdivision (c) 7 of the compact, nor pledge its credit in support of such a library, or contribute to the capital financing thereof, except after compliance with any laws applicable to such counties, municipalities, or other political subdivisions relating to or governing capital outlaws and the pledging of credit.

SOURCES: Codes, 1942, § 6209-22; Laws, 1970, ch. 459, § 2, eff from and after passage (approved April 6, 1970).

Cross References — Interstate Library Compact, see § 39-3-201.

§ 39-3-205. State library agency defined.

As used in the compact, "state library agency" with reference to this state, means the Mississippi Library Commission.

SOURCES: Codes, 1942, § 6209-23; Laws, 1970, ch. 459, § 3, eff from and after passage (approved April 6, 1970).

Cross References — Mississippi Library Commission, see §§ 39-3-101 et seq.
Interstate Library Compact, see § 39-3-201.

§ 39-3-207. Eligibility for aid of district partly within state.

An interstate library district lying partly within this state may claim and be entitled to receive state aid in support of any of its functions to the same extent and in the same manner as such functions are eligible for support when carried on by entities wholly within this state. For the purposes of computing and apportioning state aid to an interstate library district, this state will consider that portion of the area which lies within this state as an independent entity for the performance of the aided function or functions and compute and apportion the aid accordingly. Subject to any applicable laws of this state, such a district also may apply for and be entitled to receive any federal aid for which it may be eligible.

SOURCES: Codes, 1942, § 6209-24; Laws, 1970, ch. 459, § 4, eff from and after passage (approved April 6, 1970).

§ 39-3-209. Compact administrator and deputy administrators.

The director of the Mississippi Library Commission shall be the compact administrator pursuant to Article X of the compact. The director of the Mississippi Library Commission may appoint one or more deputy compact administrators pursuant to said article.

SOURCES: Codes, 1942, § 6209-25; Laws, 1970, ch. 459, § 5, eff from and after passage (approved April 6, 1970).

Cross References — Mississippi Library Commission, see §§ 39-3-101 et seq.
Interstate Library Compact, see § 39-3-201.

§ 39-3-211. Notices in event of withdrawal from compact.

In the event of withdrawal from the compact the governor shall send and receive any notices required by Article XI(b) of the compact.

SOURCES: Codes, 1942, § 6209-26; Laws, 1970, ch. 459, § 6, eff from and after passage (approved April 6, 1970).

Cross References — Interstate Library Compact, see § 39-3-201.

ARTICLE 7.

LIBRARY MATERIALS SECURITY.

SEC.
39-3-301. Short title.
39-3-303. Unauthorized removal or wilful mutilation of library materials.
39-3-305. Definitions.
39-3-307. Applicability of article.
39-3-309. Penalties for violations of § 39-3-303.
39-3-311. Construction of article; effect of acquittal or conviction upon subsequent proceedings.
39-3-313. Detention and questioning of suspects.

§ 39-3-301. Short title.

This article shall be known and may be cited as the "Mississippi Library Materials Security Law."

SOURCES: Laws, 1978, ch. 418, § 1, eff from and after July 1, 1978.

§ 39-3-303. Unauthorized removal or wilful mutilation of library materials.

(1) It shall be unlawful for any person to remove library materials, without authorization, from the premises wherein such materials are maintained or to retain possession of library materials without authorization.

(2) It shall be unlawful for any person to wilfully mutilate library materials.

SOURCES: Laws, 1978, ch. 418, § 2, eff from and after July 1, 1978.

§ 39-3-305. Definitions.

As used in this article the term:

(a) "Without authorization" means contrary to rules which set forth policies governing access to library materials and include eligibility for library patronage and lending procedures.

(b) "Library materials" means books, manuscripts, letters, newspapers, court records, films, microfilms, tape recordings, phonograph records, lithographs, prints, photographs or any other written or printed document,

graphic material of any nature and other personal property which is the property or in the custody of or entrusted to a public or private library, museum, archives or other depository.

(c) "Mutilate" means, in addition to its commonly accepted definition, the willful removal or separation of constituent parts of an item of library materials causing library materials to be exposed to damage; or duplication without authorization.

SOURCES: Laws, 1978, ch. 418, § 3, eff from and after July 1, 1978.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in paragraph (c). The word "wilfull" was changed to "willful". The Joint Committee ratified the correction at its December 3, 1996 meeting.

§ 39-3-307. Applicability of article.

The provisions of this article shall apply to all libraries, museums, archives and other depositories operated by an agency, board, commission, department or officer of the State of Mississippi, by private persons, societies or organizations, or by agencies or officers of municipalities, counties, school and junior college districts or of any other political subdivisions of the State of Mississippi.

SOURCES: Laws, 1978, ch. 418, § 4, eff from and after July 1, 1978.

§ 39-3-309. Penalties for violations of § 39-3-303.

Any person who violates the provisions of section 39-3-303 is guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment.

SOURCES: Laws, 1978, ch. 418, § 5, eff from and after July 1, 1978.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 39-3-311. Construction of article; effect of acquittal or conviction upon subsequent proceedings.

The provisions of this article are supplemental to other criminal statutes. An acquittal or conviction obtained under this article shall not be a bar to civil proceedings or actions arising from the same incident.

SOURCES: Laws, 1978, ch. 418, § 6, eff from and after July 1, 1978.

§ 39-3-313. Detention and questioning of suspects.

Any person employed by a library or any person charged with the supervision thereof with reason to believe that any person has committed or has attempted to commit any offense defined in section 39-3-303 of this article or if any person is believed to have concealed upon his person or within his belongings any library material, such person may be detained and questioned in a reasonable manner for the purpose of ascertaining whether or not such offense has been committed. Such detention and questioning shall not render such employee civilly liable for slander, false arrest, false imprisonment, malicious prosecution, unlawful detention or otherwise in any case where such library employee acts in good faith and in a reasonable manner.

SOURCES: Laws, 1978, ch. 418, § 7, eff from and after July 1, 1978.

ARTICLE 9.

MISSISSIPPI STATEWIDE LIBRARY DEVELOPMENT SYSTEM ACT OF 1988.

SEC.	
39-3-351.	Short title.
39-3-353.	Definitions.
39-3-355.	Committee to develop system of public service incentives within public library accreditation program.
39-3-357.	State aid to accredited public library systems.
39-3-359.	Library commission as primary resource library; commission to provide services to libraries.
39-3-361.	Authorization to employ consultants and other staff.
39-3-363.	Development of statewide master plan for public libraries.
39-3-365.	Confidentiality of library user records.
39-3-367.	Release and use of aggregate statistics.
39-3-369.	Use of records for purpose of collecting overdue materials and fines.

§ 39-3-351. Short title.

This article shall be known and may be cited as the "Mississippi Statewide Library Development System Act of 1988."

SOURCES: Laws, 1988, ch. 589, § 1, eff from and after July 1, 1988.

§ 39-3-353. Definitions.

For purposes of this article:

(a) "Administrative board" shall mean that board of trustees within a public library system designated pursuant to Section 39-3-13(4), Mississippi Code of 1972, with the administrative responsibilities prescribed under Section 39-3-17, Mississippi Code of 1972.

(b) "Commission" means the Mississippi Library Commission established under Section 39-3-101, Mississippi Code of 1972.

(c) "Cooperative" means any joint effort by two (2) or more library systems to improve library service.

(d) "Development system" means the statewide library development system, a network of public and nonpublic libraries cooperating in communities, districts and statewide to provide better library service.

(e) "Public library" means a library which provides customary services, without charge, to all the residents of a county, city or region and is supported whole or in part by public funds.

(f) "Public library system" means an affiliation of one or more public libraries that (i) is a minimum of one (1) county unit; (ii) has one (1) library administrative board of trustees; (iii) has one (1) library system director; (iv) is established according to Section 39-3-8, 39-3-9, 39-3-11 or 39-3-13, Mississippi Code of 1972; and (v) is supported whole or in part by public funds.

(g) "Nonpublic library" means a school, college or university, medical, business, law or other special library.

SOURCES: Laws, 1988, ch. 589, § 2, eff from and after July 1, 1988.

§ 39-3-355. Committee to develop system of public service incentives within public library accreditation program.

The Mississippi Library Commission shall be responsible for developing a system of public service incentives within a public library accreditation program on the recommendation of a committee of qualified public library professionals and trustees. The committee of fifteen (15) members shall be appointed by the Mississippi Library Commission Board of Commissioners as follows: seven (7) public library trustees with at least one (1) from each congressional district; five (5) professional public librarians, one (1) appointed by each commissioner; and three (3) at-large members.

SOURCES: Laws, 1988, ch. 589, § 3, eff from and after July 1, 1988.

Cross References — Mississippi Library Commission, see §§ 39-3-101 et seq.

§ 39-3-357. State aid to accredited public library systems.

Each accredited public library system shall receive an annual allocation of state funds to supplement the local appropriation and other income. Library cooperatives which include accredited public library systems may receive state aid. The state aid shall be used only to support library services in accredited public library systems and in cooperatives including accredited public library systems. The amount of the minimum allocation for each public library system shall be based on specific local service levels of the public library system and as identified by accreditation category.

SOURCES: Laws, 1988, ch. 589, § 4, eff from and after July 1, 1988.

ATTORNEY GENERAL OPINIONS

The Mississippi Library Commission does not have authority to alter the total amount of state aid funds to be distributed among the qualified public library systems. Greene, Jan. 24, 2003, A.G. Op. 03-0022.

The Mississippi Library Commission may specify the total amount of state aid funds, including Personnel Incentive Grant Program funds, designated for public library systems, unless and until the Mississippi legislature specifically designates a total amount of state aid funds for public library systems or a total amount of Personnel Incentive Grant Program funds in the appropriation for the Commission; opinion 03-0022 to Richard Greene, January 24, 2003 is withdrawn. Smith, May 2, 2003, A.G. Op. 03-0181.

§ 39-3-359. Library commission as primary resource library; commission to provide services to libraries.

The commission shall be the primary resource library for Mississippi public libraries and shall develop its collection accordingly. The commission shall provide services to libraries within the funds available and in keeping with the goal of efficient use of library resources in the state.

SOURCES: Laws, 1988, ch. 589, § 5, eff from and after July 1, 1988.

Cross References — Mississippi Library Commission, see §§ 39-3-101 et seq.

§ 39-3-361. Authorization to employ consultants and other staff.

The commission may employ consultants and other staff to implement the development system by working with cooperatives and public library systems.

SOURCES: Laws, 1988, ch. 589, § 6, eff from and after July 1, 1988.

Cross References — Mississippi Library Commission, see §§ 39-3-101 et seq.

§ 39-3-363. Development of statewide master plan for public libraries.

The commission shall develop a statewide master plan for public libraries, including plans for levels of library services and resources, which is developed through a continuing process of planning. The master plan must be designed to extend five (5) years into the future and must be made current at least every two (2) years.

SOURCES: Laws, 1988, ch. 589, § 7, eff from and after July 1, 1988.

Cross References — Mississippi Library Commission, see §§ 39-3-101 et seq.

§ 39-3-365. Confidentiality of library user records.

Records maintained by any library funded in whole or in part by public funds, which contain information relating to the identity of a library user, relative to the user's use of books or other materials at the library, shall be confidential. Such records may only be released with the express written permission of the respective library user or as the result of a court order.

SOURCES: Laws, 1992, ch. 521, § 1, eff from and after July 1, 1992.

§ 39-3-367. Release and use of aggregate statistics.

Aggregate statistics shown from registration and circulation records, with all personal identification removed, may be released or used by a library for research, planning and reporting purposes.

SOURCES: Laws, 1992, ch. 521, § 2, eff from and after July 1, 1992.

§ 39-3-369. Use of records for purpose of collecting overdue materials and fines.

No provision of this article shall be construed to prohibit any library, or any business operating jointly with a library, from disclosing information for the purpose of collecting overdue books, documents, films or other items or materials owned or otherwise belonging to such library. No provision of this article shall be construed to prohibit or hinder any such library or business office from collecting fines on such overdue books, documents, films or other items or materials.

SOURCES: Laws, 1992, ch. 521, § 3, eff from and after July 1, 1992.

CHAPTER 5

Archives and History

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IN GENERAL

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§ 39-5-1. Department of archives and history created; objects and purposes.

There shall be for the State of Mississippi a department of archives and history located in the state capitol in apartments set aside for its use by the governor. The objects and purposes of the department are the care and custody of official archives, the collecting of materials bearing upon the history of the state and of the territory included therein, from the earliest times, the editing of official records and other historical material, the diffusion of knowledge in reference to the history and resources of this state, the preparation and publication of annual reports, the encouragement of historical work and research and the performance of such other acts and requirements as may be enjoined by law.

SOURCES: Codes, 1906, § 1633; Hemingway's 1917, § 3447; 1930, § 3626; 1942, § 6180.

Cross References — Retention and filing of materials relative to audits, see § 7-7-215.

Powers and duties of the department under the Archives and Records Management Law of 1981, see §§ 25-59-1 et seq.

Exemption of certain archaeological records from requirements of public access, see § 39-7-41.

Creation of trusts for founding public institutions, see §§ 39-9-1 et seq.

Duties in connection with local government historic preservation districts, see § 39-13-7.

ATTORNEY GENERAL OPINIONS

The separation of powers doctrine set forth in the Mississippi Constitution prohibits a person from serving simultaneously as a member of the Mississippi House of Representatives and as a member of the Mississippi Civil War Battlefield Commission. Lingle, Sept. 19, 2003, A.G. Op. 03-0456.

RESEARCH REFERENCES

Am Jur. 2 Am. Jur. Trials, Locating Public Records, § 54.

§ 39-5-3. Department board of trustees generally.

The department of archives and history shall be under the control of a board of nine trustees. The board shall have the power and authority to fill all vacancies occurring therein, whether by expiration of term of service or by death or resignation, but the names of all newly elected members shall be communicated to the next ensuing session of the state senate for confirmation, and in case it shall reject any of the said newly elected trustees it shall proceed forthwith to fill the vacancy or vacancies by an election. All trustees chosen to succeed the present members or their successors shall serve for a term of six years. The board of trustees shall hold at the state capitol at least one regular meeting during the year, and as many special meetings as may be necessary, and at said meetings five members shall constitute a quorum. The director of the department of archives and history, hereinafter provided, shall be secretary of the board. The trustees shall receive no compensation for their services other than the amount of their necessary expenses actually paid out while in attendance on the meetings of the board or the business of the department. The board is empowered to adopt rules for its own government and for the government of the department, to elect and fix the compensation of a director not to exceed the maximum set by the legislature, and other officials or employees, and to do and perform such other acts and things as may be necessary to carry out the true intent and purposes of this chapter.

SOURCES: Codes, 1906, § 1634; Hemingway's 1917, § 3448; 1930, § 3627; 1942, § 6181; Laws, 1960, ch. 237; Laws, 1966, ch. 445, § 16, eff from and after July 1, 1966.

Cross References — Salaries of board of trustees, see § 25-3-31.

Powers and duties of the board of trustees with respect to the governor's mansion, see § 39-5-6.

§ 39-5-5. General powers and duties of board of trustees.

The duties and powers of the Board of Trustees of the Department of Archives and History shall include, in addition to other duties and powers granted or prescribed by law, the following:

(a) To determine the location of places of historical interest within the state;

(b) To make a survey of buildings of all types throughout the state which are in danger of destruction, without proper care, and which in the opinion of the board of trustees should be preserved for historical purposes;

(c) To contact the proper authorities of the United States national cemeteries and military parks to determine whether or not the record of Mississippi troops is adequately commemorated;

(d) To acquire, preserve, restore or operate any real or personal property deemed significant for historical, architectural, archaeological or cultural reasons, to expend funds for such purposes, to enter into contracts or agreements with any agency of the United States or any person, firm, corporation or association for such purposes and to do any and all things which may be necessary or desirable to carry out such purposes;

(e) To participate with any agency of the United States, any other governmental agency or any person, firm, corporation, association or group in mutual or cooperative programs or projects within the duties and powers of the board of trustees;

(f) To accept grants or donations of money or property, real or personal, from any agency of the United States, any other governmental agency or any person, firm, corporation, association or group. However, the board of trustees shall not be required, except by specific act of the Legislature, to accept any property without its consent; and

(g) To provide suitable markers with adequate descriptions of the historical sites to which they refer, for places of historical interest and to provide suitable markers on the highways and roads of this state showing the direction and distance to the historical sites.

SOURCES: Codes, 1942, § 6181.5; Laws, 1968, ch. 501, § 1; Laws, 1979, ch. 438, § 13; Laws, 1990, ch. 502, § 4, eff from and after July 1, 1990.

Editor's Note — Laws of 2010, ch. 538, § 1, provides:

"SECTION 1. Of the Two Hundred Fifty Thousand Dollars ($250,000.00) appropriated under House Bill No. 1660, Laws of 1995, and House Bill No. 1797, Laws of 2002, for the purpose of assisting the National Park Service in restoring and repairing the Mississippi Monument at the Vicksburg National Military Park, the Mississippi Department of Archives and History is hereby authorized to utilize the funds remaining from this appropriation for the purpose provided herein. The Department of Archives and History may enter into an agreement with the National Park Service to place the remaining restoration funds in an interest-bearing Maintenance Escrow Account to be distributed to the Department of Archives and History for use in restoring and replacing monuments, markers and/or tablets at the Vicksburg National Military Park or any other landmarks within the City of Vicksburg upon approval and direction provided by the National Park Service and the Friends of Vicksburg National Military Park and Campaign."

Laws of 2011, ch. 411, § 1, provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Mississippi Department of Archives and History, is authorized to donate to Tougaloo College, all of the rights, title and interest in certain real property under the possession and control of the Department of Archives and History, located in the First Judicial District of Hinds County, Mississippi, subject to the requirements and conditions prescribed in subsection (2) of this section. The property is more particularly described as follows:

"Lots 12 and 13, Block 42, Elraine Resurvey, Part 2, a subdivision according to a map or plat thereof which is on file and of record in the Office of the Chancery Clerk of Hinds County at Jackson, Mississippi, recorded in Plat Book 4 at Page 71, reference to which is hereby made in aid of and as a part of this description;

"AND

"Lot 14, Block 42, Elraine Resurvey, Part 2, a subdivision according to a map or plat thereof which is on file and of record in the Office of the Chancery Clerk of Hinds County at Jackson, Mississippi, recorded in Plat Book 4 at Page 71, reference to which is hereby made in aid of and as a part of this description.

"(2) If at any time after the donation of the real property described in subsection (1) of this section Tougaloo College ceases to use the real property for the purposes intended at the time of donation, Tougaloo College shall forfeit its rights, title and interest in the real property, and all of the rights, title and interest in the real property shall revert back to the State of Mississippi, to be held for the use and benefit of the Mississippi Department of Archives and History.

"(3) The State of Mississippi shall retain all mineral rights in the property donated under the provisions of this section."

Laws of 2012, ch. 365, § 1, provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Department of Archives and History, is authorized to extinguish the preservation deed of easement on the historic Corinth Machinery Building, located in the City of Corinth, Alcorn County, Mississippi, subject to the conditions of subsection (2). The easement is more particularly described as having been:

"Granted on May 17, 2002, as an easement for the preservation of the Corinth Machinery Building, granted in perpetuity to the Mississippi Department of Archives and History by one, David Campbell and one, Chris Chain, Partners d/b/a Camp-Chain, a Partnership, their successors and assigns, for the purpose of protecting the public's investment in the preservation of said building.

"Said easement being granted to the Mississippi Department of Archives and History in consideration of a Certified Local Government grant in the amount of Two Thousand Five Hundred Dollars ($2,500.00) awarded to the City of Corinth and Camp-Chain Partnership for repairs to the Corinth Machinery Building; and a second grant to the City of Corinth in 2010 in the amount of Two Thousand One Hundred Sixty Dollars ($2,160.00) for additional investigation of said historic structure; and

"(2) The preservation deed of easement on the historic Corinth Machinery Building property described in subsection (1) of this section shall not be extinguished by the Department of Finance and Administration, acting on behalf of the Mississippi Department of Archives and History, unless and until the Old Corinth Machinery, LLC, repays the publicly funded grant in the amount of Four Thousand Six Hundred Sixty Dollars ($4,660.00), with interest, to the Mississippi Landmark Grant Fund for the benefit and preservation of other historic properties."

Laws of 2014, ch. 393, § 1 provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Mississippi Department of Archives and History, is authorized to donate to the U.S. Department of the Interior, National Park Service, Vicksburg National Military Park all the rights, title and interest in certain real property under the possession and control of the Department of Archives and History, located in the Second Judicial District of Hinds County, Mississippi, subject to the requirements and conditions prescribed in subsection (3) of this section. The property is more particularly described as follows:

[For a complete description of the property, see Section 1 of Chapter 393, Laws of 2014.]

"(2) The Department of Finance and Administration, acting on behalf of the Mississippi Department of Archives and History, is further authorized to donate to the U.S. Department of the Interior, National Park Service, Vicksburg National Military, all of the rights, title and interest in certain real property under the possession and control of the Department of Archives and History, located in Claiborne County, Mississippi, subject to the requirements and conditions prescribed in subsection (3) of this section. The property is more particularly described as follows:

[For a complete description of the property, see Section 1 of Chapter 393, Laws of 2014.]

"(3) The State of Mississippi shall retain all mineral rights in the property donated under the provisions of this section."

Cross References — General accounting office records not to be destroyed without approval of director of department of archives and history, see § 7-7-63.

Powers and duties of the department under the Archives and Records Management Law of 1981, see §§ 25-59-1 et seq.

Powers and duties of the board of trustees with respect to the governor's mansion, see § 39-5-6.

ATTORNEY GENERAL OPINIONS

Department of Archives and History may sell out of state newspapers and old newspapers which Department no longer needs in its collections, and may use whatever procedures it deems best for the sale of these newspapers. Hilliard, August 26, 1992, A.G. Op. #92-0568.

Board of Trustees of Department of Archives and History may charge fee of $25.00 to groups for use of Old Capitol Building to recover costs associated with use of building pursuant to statute; Department must establish uniform policy for all groups with regard to use of building which passes constitutional muster. Hilliard Nov. 24, 1993, A.G. Op. #93-0843.

Sections 37-7-451 et seq. and 37-7-471 et seq. set forth the methods by which a school district may dispose of property which is not needed for school purposes. The Department of Archives and History may acquire the property upon making a determination that it is significant for historical, architectural, archaeological or cultural reasons pursuant to Section 39-5-5(d). Hilliard, April 27, 1995, A.G. Op. #95-0012.

Bill creating the Museum Fund in the State Treasury and setting forth the procedures for administration of the grant program by the Department of Archives and History and the Department of Finance and Administration, though authorizing grants to pay the costs of the various projects, does not specify how the two agencies are to administer the grants and, thus, must be seen as permitting the establishment of a reimbursable grant program. Hillard, January 23, 1998, A.G. Op. #97-0820.

The Board of Trustees of the Department of Archives and History could sell specified museum graphics from Ernest Gray Flora, Jr. on behalf of the Noxubee County Historical Society, dated September 15, 1998, to the Noxubee County Historical Society on such terms and conditions as the board saw fit for installation in the museum in Noxubee County. Hilliard, November 6, 1998. A.G. Op. #98-0660.

§ 39-5-6. Powers and duties of board of trustees with respect to governor's mansion; employment of and powers and duties of curator of New Capitol Building.

The duties and powers of the Board of Trustees of the Department of Archives and History shall include, in addition to other duties and powers granted or prescribed by law, the following:

(a) To promulgate rules and regulations governing the use of the historic portion of the Governor's Mansion;

(b) To promulgate rules and regulations governing the acquisition of furniture and furnishings, including, but not limited to, carpets, rugs, paintings, draperies and objects of art, for the original or historic portion of the Governor's Mansion;

(c) To employ a curator of the mansion who shall have the following duties:

(i) To maintain a descriptive inventory of and be responsible for the care and custody of all furniture and furnishings in the Governor's Mansion that have been catalogued by the Department of Archives and History, including flat silver and silver hollowware. However, the Department of Finance and Administration shall maintain a descriptive inventory of and be responsible for the care and custody of all publicly owned furniture and furnishings in the Governor's Mansion that have not been catalogued by the Department of Archives and History, including flat silver and silver hollowware; and

(ii) To conduct an educational training program for staff and volunteer guides who may conduct tours of the mansion when it is open to the public at specified times agreed upon by the Governor;

(d) To promote the donation or loaning of money or property, real or personal, from any agency of the United States, state or local government, any person, firm, corporation, association or group, for the purpose of furnishing or decorating the original or historic portion of the Governor's Mansion;

(e) To accept such donations of money or property, real or personal, from any agency of the United States, state or local government, any person, firm, corporation, association or group, for the purpose of furnishing or decorating the original or historic portion of the Governor's Mansion, provided that the board of trustees shall not be required to accept any donation of furniture or furnishings without its consent;

(f) To sell, donate or otherwise dispose of unused surplus property of the Governor's Mansion, excluding any property located in the mansion which belongs to the Governor's Office, and to deposit the proceeds of such sales in the Governor's Mansion Fund of the Board of Trustees of the Department of Archives and History for use, in the board's discretion, in acquiring furniture or furnishings, including, but not limited to, carpets, rugs, paintings, draperies and objects of art, for the original or historic portion of the Governor's Mansion;

(g) To review and approve any major changes in the architecture, furniture, furnishings, decoration or landscaping of the grounds of the Governor's Mansion; and

(h) To employ a Curator of the New Capitol Building, who shall have the following powers and duties:

(i) To oversee, initiate, approve and monitor the care of the New Capitol Building and grounds to ensure long-term preservation, conservation and maintenance of the building, historic furnishings and grounds;

(ii) To coordinate with personnel of the Department of Finance and Administration and the project professionals on any repair, renovation or restoration plans for the New Capitol Building or grounds, ensuring that all work is in accordance with the Secretary of the Interior's Standards for Rehabilitation;

(iii) To request quotations for projects at the New Capitol Building or grounds upon instructions from the Department of Finance and Administration; apply for permits from the Department of Archives and History when applicable; request that projects be initiated through the proper agency and serve as the in-house professional depending upon the scope of work; and maintain contact with any project professional involved in a project, beginning with the bid or quote process through initiation and completion of the project;

(iv) To coordinate special state events held at the New Capitol Building or grounds other than those held in the Chambers of the House of Representatives or the Senate;

(v) To serve as a liaison to the Clerk of the House of Representatives, Secretary of the Senate, Department of Finance and Administration, Department of Archives and History and project professionals on all projects at the New Capitol Building or grounds;

(vi) To coordinate with the Capitol Hostess on tours and events for the public held at the New Capitol Building or grounds; and

(vii) To perform such other duties relating to the New Capitol Building or grounds as prescribed by the director of the department.

SOURCES: Laws, 1974, ch. 337; Laws, 1979, ch. 438, § 14 1980, ch. 349, § 1; Laws, 2012, ch. 487, § 1, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment rewrote (c); added (h); and made minor stylistic changes.

Cross References — Board of trustees generally, see §§ 39-5-3, 39-5-5.

Prohibition on removal of property from governor's mansion and penalty for violations, see § 39-5-21.

§ 39-5-7. Director of department.

The department of archives and history shall be under the immediate management and control of a director, to be elected by the board of trustees, whose term of office shall be six years, and until his successor is elected and qualified. He shall take an oath of office as do other state officials, and shall be commissioned in like manner. He shall have authority to adopt a seal for use in official business. He shall devote his time to the work of the department, using his best endeavor to develop and build it up, so as to carry out the design of its creation. He shall have the control and direction of the work and operations of the department, and shall preserve its collection, care for the official archives that may come into his custody, collect, as far as possible, all materials bearing upon the history of the state and the territory included therein from the earliest times, prepare the official registers hereinafter provided, and diffuse knowledge in reference to the history and resources of the state. The director of the department shall make a report of the expenses of the department to the legislature of the state as state officers.

SOURCES: Codes, 1906, § 1635; Hemingway's 1917, § 3449; 1930, § 3628; 1942, § 6182.

Cross References — Reproduction of county records on film and destruction of originals, see § 19-15-3.

Ceiling on salaries for state employees, see § 25-3-39.

Powers and duties of the department and director under the Archives and Records Management Law of 1981, see §§ 25-59-1 et seq.

Department of Archives and history created, see § 39-5-1.

§ 39-5-9. Local Government Records Office.

A Local Government Records Office is established within the Department of Archives and History. The office shall begin operation when sufficient funds therefor have accumulated in the Local Government Records Management Fund established in Section 25-60-5. The office shall have the following powers and duties as well as any others which are prescribed by law elsewhere or assigned to the office by the director of the department:

(a) Provide and coordinate education and training for counties and municipalities on records management issues.

(b) Establish records management standards to guide counties and municipalities, such standards to include, but not be limited to, guidelines for microfilm production and storage, electronic records security and migration, records preservation, imaging and records storage.

(c) Prepare records control schedules for adoption or amendment by the Local Government Records Committee established in Section 25-60-1. In the preparation of the schedules and amendments thereto, the office shall seek input from interested citizens and organizations.

(d) Establish standards for records storage areas of local governmental bodies, such standards to include, but not be limited to, guidelines for the selection of an off-site storage facility for records of enduring or archival value.

SOURCES: Laws, 1996, ch. 537, § 2; Laws, 1997, ch. 452, § 3; Laws, 2006, ch. 495, § 4, eff from and after July 1, 2006.

Editor's Note — Former § 39-5-9, Codes, 1942, § 6182.5; Laws, 1968, ch. 427, § 1; repealed by Laws of 1978, ch. 520, § 16, eff from and after July 1, 1978, authorized the board of trustees of the department of archives and history to provide additional compensation of the director of department of archives and history.

Cross References — Department of archives and history created, see § 39-5-1.

§ 39-5-11. Surrender of official books, records, etc., to department.

Any state, county, municipal or other official is hereby authorized and empowered, in his discretion, to turn over to the department for permanent preservation therein, any official books, records, documents, original papers, newspaper files and printed books not in current use in their offices. When so surrendered copies therefrom shall be made and certified by the director upon the application of any person interested, which certification shall have all the force and effect as if made by the officer originally in the custody of them, and for which the same fees shall be charged, to be collected in advance.

SOURCES: Codes, 1906, § 1636; Hemingway's 1917, § 3450; 1930, § 3629; 1942, § 6183.

§ 39-5-13. Surrender of historical portraits to department.

The county boards of supervisors are hereby authorized and empowered to turn over to the department historical portraits which may be the property of the counties, and to make appropriations, on application of the director, for the purpose of placing oil portraits of distinguished citizens of Mississippi in the state's hall of fame. The selection of such portraits shall be made at the request and under the direction of the board of trustees of the department.

SOURCES: Codes, 1906, § 1637; Hemingway's 1917, § 3451; 1930, § 3630; 1942, § 6184.

§ 39-5-15. Official and statistical register.

An official and statistical register of the State of Mississippi shall be compiled by the Secretary of State after each general election, to contain brief sketches of the several state officials, the members of Congress from Mississippi, the Supreme Court judges, the members of the Senate and House of Representatives of the State of Mississippi; a roster of all state and county officials, lists of all state institutions, with officials; state and county population and election statistics, and miscellaneous statistics. This register shall be published in an amount not to exceed forty thousand (40,000) and shall be for free distribution, the printing and the binding to be paid for as is other public printing and binding. Its distribution shall be paid out of the fund provided for the distribution of other public documents. This register shall have printed on the title page the following statement: "This book was paid for by the taxpayers of the State of Mississippi and authorized by the Mississippi Legislature."

SOURCES: Codes, 1906, § 1638; Hemingway's 1917, § 3452; 1930, § 3631; 1942, § 6185; Laws, 1948, ch. 423, § 1; Laws, 1964, ch. 380; Laws, 2001, ch. 501, § 1, eff from and after July 1, 2001.

§ 39-5-17. Acquisition of historic or prehistoric ruins, etc.

The board of supervisors of any county in the state, in its discretion, shall be authorized to acquire title by gift or grant the site of any historic or prehistoric ruin or monument or any object of historical, archeological or scientific value situated in said county, for public parks and reservations to be devoted solely to the educational and recreational advantages of the people, upon the written permission of the director of the department of archives and history of the State of Mississippi. Said board shall be authorized to expend in the maintenance of said public parks and reservations an amount not exceeding one hundred dollars ($100.00) per annum out of the general funds of said county.

SOURCES: Codes, 1942, § 6191; Laws, 1938, ch. 309.

Cross References — Exemption of certain archaeological records from requirement of public access, see § 39-7-41.

RESEARCH REFERENCES

Law Reviews. Historic Preservation of the Zoning Power: A Mississippi Perspective. 50 Miss. L. J. 533, September, 1979.

§ 39-5-19. Restoration and maintenance of abandoned cemeteries.

Upon the official certificate of the trustees of the state department of archives and history that any abandoned cemetery is of historical significance and should be repaired, rehabilitated, or maintained as a historical monument, the boards of supervisors of the respective counties in this state are hereby authorized and empowered, in their discretion, to repair, rehabilitate, and maintain any such cemetery within the borders of the county over which such board has jurisdiction.

Subject to like certificate from the said trustees, the board of supervisors in adjoining counties may, in their discretion, jointly accomplish such repairs, rehabilitation, or maintenance in those instances where the cemetery in question occupies territory which at one time or another was located as a part of said adjoining counties.

SOURCES: Codes, 1942, § 3019.5; Laws, 1971, ch. 425, §§ 1 and 2, eff from and after passage (approved March 23, 1971).

Cross References — Department of archives and history board of trustees generally, see § 39-5-3.

ATTORNEY GENERAL OPINIONS

A board of supervisors is not given authority by § 39-5-19 to construct a road to a cemetery that is some distance from any existing public road. Munn, Aug. 30, 2002, A.G. Op. #02-0276.

§ 39-5-21. Unauthorized removal of property from governor's mansion.

(1) It shall be unlawful for any person to remove any personal property of the state in the custody of the curator of the governor's mansion from the grounds of the governor's mansion without the authorization of such curator. Any person who violates this section shall be guilty of a misdemeanor and punished, upon conviction, by a fine of not more than two thousand dollars ($2,000.00) or by imprisonment in the county jail for not more than one (1) year or by both such fine and imprisonment.

(2) The provisions of this section are supplemental to other criminal statutes. An acquittal or conviction obtained under this section shall not be a bar to civil proceedings or actions arising from the same incident.

SOURCES: Laws, 1980, ch. 349, § 2, eff from and after passage (approved April 23, 1980).

Cross References — Curator of governor's mansion, see § 39-5-6.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 39-5-23. Historic Properties Trust Fund.

(1) The Mississippi Department of Archives and History is hereby authorized and empowered to solicit and accept donations, bequests, devises, gifts and grants of money from individuals, organizations and federal, state and local governmental bodies, to be deposited in the Historic Properties Trust Fund which is hereby created in the State Treasury. Contributions to the Historic Properties Trust Fund may be undesignated or earmarked for the purpose of acquiring, preserving, restoring, supporting, operating and administering Mississippi Landmark properties or for use on specific historical projects that have been authorized by the Department of Archives and History. The Mississippi Department of Archives and History may deposit federal funds received under Section 2 of Laws, 2000, Chapter 487, as amended by Laws, 2003, Chapter 509, into the Historic Properties Trust Fund and may use such

funds for the purposes provided in subsection (2) of Section 2 of Laws, 2000, Chapter 487, as amended by Laws, 2003, Chapter 509. The State Treasurer shall invest all monies in the Historic Properties Trust Fund as other state funds are authorized to be invested, and any interest earned shall be deposited into the fund.

(2) The Mississippi Department of Archives and History is hereby authorized and empowered to solicit and accept donations, bequests, devises, gifts and grants of money and real and personal property. The Board of Trustees of the Department of Archives and History may, in its discretion, sell such real and personal property by public or private sale and shall deposit proceeds derived from such sale into the Historic Properties Trust Fund.

(3)(a) The Board of Trustees of the Mississippi Department of Archives and History is authorized to establish the Mississippi Landmark Grant Program within the Historic Properties Trust Fund to help ensure the preservation of Mississippi Landmark properties.

(b) The Board of Trustees of the Mississippi Department of Archives and History may deposit funds appropriated by the Legislature, or funds transferred from the Historic Properties Financing Fund as specified in Section 89-12-37(2), into the account established for the Mississippi Landmark Grant Program within the Historic Properties Trust Fund. That portion of the proceeds of bonds issued under Sections 1 through 16 of Laws, 2002, Chapter 543, shall be deposited, in the manner provided in Sections 1 through 16 of Laws, 2002, Chapter 543, into the account established for the Mississippi Landmark Grant Program within the Historic Properties Trust Fund. All funds deposited in the account for the Mississippi Landmark Grant Program shall be used exclusively for the purpose of acquiring, preserving, restoring, supporting, operating and administering Mississippi Landmark properties or those properties to be designated as Mississippi Landmarks.

(c) The board of supervisors of every county and the governing authorities of every municipality in the state may make contributions to the Mississippi Department of Archives and History, to be deposited into the account for the Mississippi Landmark Grant Program. Such contributions may be undesignated or earmarked for use on specific Mississippi Landmark properties.

(d) The Board of Trustees of the Mississippi Department of Archives and History shall have all powers necessary to implement and administer the Mississippi Landmark Grant Program, and the board of trustees shall promulgate all rules and regulations necessary for the implementation and administration of the program.

SOURCES: Laws, 1987, ch. 374, § 2; Laws, 1999, ch. 486, § 1; Laws, 2000, ch. 487, § 19; Laws, 2002, ch. 543, § 18; Laws, 2003, ch. 509, § 19, eff from and after passage (approved Apr. 19, 2003.)

Cross References — Mississippi Department of archives and history created, see § 39-5-1.

§ 39-5-25. Construction of parking areas at official state historical markers.

(1) The Mississippi Department of Transportation, in cooperation with the Mississippi Department of Archives and History, may develop a priority plan for the design and construction of motor vehicle parking areas located at official state historical markers on and along the rights-of-way of the highways, roads and streets under the jurisdiction of the Transportation Department. For the purposes of this section an "official state historical marker" means any such marker that is included on the inventory of state historical markers maintained by the Department of Archives and History.

(2) The plan developed by the Transportation Department shall include provisions for road signs on and along the highway, road or street upon which a historical marker is located so as to provide advance notice to motorists approaching from either direction that a historical marker is located ahead. Such road signs shall be designed by the Mississippi Department of Transportation and shall be uniform in color, size and appearance.

(3) The Executive Director of the Department of Transportation and the Executive Director of the Department of Archives and History shall meet annually to review the progress of the implementation of this section and to determine those projects that will be performed under this section during the next fiscal year.

(4) The costs incurred by the Department of Transportation and the Department of Archives and History under the provisions of this section shall be paid out of any funds made available upon legislative appropriation; however, the Department of Transportation shall apply for such federal funds as may be available to help defray the costs of projects performed under this section. The Department of Archives and History shall include in its annual budget requests a request for funds for the systematic maintenance of official state historical markers.

SOURCES: Laws, 1994, ch. 463, § 1, eff from and after passage (approved March 22, 1994).

Cross References — Mississippi Department of archives and history created, see § 39-5-1.

Director of Department of Archives and History, see 39-5-7.

§ 39-5-27. Archives Trust Fund.

The Mississippi Department of Archives and History is hereby authorized and empowered to solicit and accept donations, bequests, devises, gifts and grants of money from individuals and organizations, to be deposited in the Archives Trust Fund which is hereby created in the State Treasury. The State Treasurer shall invest all monies in the Archives Trust Fund as other state funds are authorized to be invested, and any interest earned shall be deposited into the fund. All funds deposited in the Archives Trust Fund shall be used, pursuant to appropriation by the Legislature, exclusively for the purpose of acquiring, cataloging, conserving and making available archival resources.

The Mississippi Department of Archives and History is hereby authorized and empowered to solicit and accept donations, bequests, devises, gifts and grants of real and personal property. The Board of Trustees of the Department of Archives and History may, in its discretion, sell such property by public or private sale and shall deposit proceeds derived from such sale into the Archives Trust Fund.

The Board of Trustees of the Mississippi Department of Archives and History is authorized and empowered, in its discretion, to deposit into the Archives Trust Fund any monies in the Department's Archives and Library Gift Fund and any monies received as a result of royalty or use fee payments.

SOURCES: Laws, 1996, ch. 380, § 1, eff from and after passage (approved March 18, 1996).

Cross References — Mississippi Department of Archives and History generally, see § 39-5-1.

Board of Trustees of the Department of Archives and History generally, see §§ 39-5-3.

§ 39-5-29. Museum Trust Fund.

There is created in the State Treasury a special fund to be known as the "Museum Trust Fund." The Mississippi Department of Archives and History may solicit and accept donations, bequests, devises, gifts and grants of money from individuals, organizations, and corporations to be deposited in the Museum Trust Fund. The State Treasurer shall invest all monies in the Museum Trust Fund as other state funds are authorized to be invested, and any interest earned shall be deposited into the fund. All funds deposited in the Museum Trust Fund shall be expended upon appropriation by the Legislature, solely for the purpose of acquiring, cataloging, conserving, and exhibiting artifacts.

The Mississippi Department of Archives and History may solicit and accept donations, bequests, devises, gifts and grants of real and personal property. The Board of Trustees of the Department of Archives and History, in its discretion, may sell the property by public or private sale and shall deposit proceeds derived from the sale into the Museum Trust Fund.

The Board of Trustees of the Mississippi Department of Archives and History, in its discretion, may deposit into the Museum Trust Fund any monies in the Department's Museum Gift Fund and any monies received as a result of royalty or use fee payments.

Unexpended amounts remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on the unexpended amounts in the special fund shall be deposited to the credit of the special fund.

SOURCES: Laws, 1997, ch. 352, § 1, eff from and after passage (approved March 17, 1997).

Cross References — Mississippi Department of Archives and History generally, see § 39-5-1.

Board of Trustees of the Department of Archives and History generally, see §§ 39-5-3.

§ 39-5-31. William F. Winter Archives and History Building.

The new Archives and History Building to be located on the corner of Amite Street and North Street in Jackson, Mississippi, shall be named the William F. Winter Archives and History Building.

SOURCES: Laws, 2000, ch. 311, § 1, eff from and after passage (approved Mar. 29, 2000.)

§ 39-5-33. Authorization to extinguish, abandon and nullify certain conservation easements.

The Department of Archives and History is hereby authorized to extinguish, abandon and nullify any conservation easement granted to it by The Friends of the Siege and Battle of Corinth, Inc., its successors and similar organizations, whenever the department determines, in its discretion, that such action would be necessary or convenient for the use or ownership of such lands by the United States National Park Service.

SOURCES: Laws, 2011, ch. 507, § 3, eff from and after passage (approved Apr. 26, 2011.)

DANCING RABBIT CREEK TREATY PROPERTY

SEC.
39-5-41. Transfer of title to property to Department of Archives and History.
39-5-43. Dancing Rabbit Creek Treaty Site Advisory Committee.

§ 39-5-41. Transfer of title to property to Department of Archives and History.

The Mississippi Department of Wildlife, Fisheries and Parks is hereby authorized and empowered to transfer title to the Dancing Rabbit Creek Treaty property to the Department of Archives and History.

SOURCES: Laws, 1973, ch. 474, § 1; Laws, 2000, ch. 516, § 10, eff from and after passage (approved Apr. 30, 2000.)

Editor's Note — Section 55-3-31 provides that the words "Mississippi Park Commission" shall mean the Mississippi Department of Wildlife, Fisheries and Parks.

§ 39-5-43. Dancing Rabbit Creek Treaty Site Advisory Committee.

(1) There is hereby created an advisory committee to be known as the Dancing Rabbit Creek Treaty Site Advisory Committee.

(2) The Dancing Rabbit Creek Treaty Site Advisory Committee shall be composed of a member appointed by the Director of the Department of Wildlife, Fisheries and Parks, a member appointed by the Board of Trustees of the Department of Archives and History, a member appointed by the Executive Director of the Department of Economic and Community Development, a member appointed by the Board of Directors of the Tombigbee River Valley Water Management District, a member appointed by the Board of Directors of the Mississippi Historical Society, a member appointed by the Noxubee County Board of Supervisors, a member appointed by the Golden Triangle Planning and Development District, two (2) members appointed by the Tribal Council of the Mississippi Band of Choctaw Indians, a member appointed by the Noxubee County Historical Society, a member appointed by the Macon-Noxubee County Chamber of Commerce, a member appointed by the Bernard Romans Chapter, Daughters of the American Revolution, a member appointed by the Dancing Rabbit Chapter, Daughters of the American Revolution, a member who is the State Senator for the State Senate district in which the treaty site is located and a member who is the State Representative for the State House of Representatives district in which the treaty site is located. Each member will serve terms of four (4) years and shall be eligible to succeed themselves as appointees or their successors who shall be appointed thereafter.

(3) The Dancing Rabbit Creek Treaty Site Advisory Committee shall study and develop in its discretion plans subject to the approval of the Board of Trustees of the Department of Archives and History for the preservation, selective restoration and development of the Dancing Rabbit Creek Treaty property and shall submit an annual report to the Governor, the Legislature and the Board of Trustees of the Department of Archives and History, reporting on the work of the committee and making recommendations for the appropriate development of the property. This committee is to serve without pay.

(4) The committee will be initially organized by the Director of the Department of Archives and History.

SOURCES: Laws, 1973, ch. 474, § 2; Laws, 1988, ch. 518, § 22; Laws, 1991, ch. 410, § 1, eff from and after July 1, 1991.

Editor's Note — See Section 49-2-6 for transfer of functions of the Commission on Natural Resources to Commission on Environmental Quality.

Section 55-3-31 provides that the words "Mississippi Park Commission" shall mean the Mississippi Department of Wildlife, Fisheries and Parks.

Section 57-1-2 provides that the term "Board of Economic Development" shall mean the "Department of Economic and Community Development".

Cross References — Board of Trustees of the Department of Archives and History generally, see §§ 39-5-3.

Powers and duties of the Director of the Department of Wildlife, Fisheries and Parks, see § 49-4-13.

Powers of the Board of Directors of the Tombigbee River Valley Water Management District, see § 51-13-111.

Executive director of the Department of Economic and Community Development, see § 57-1-52.

BEAUVIOR

Sec.	
39-5-51.	Establishment of Jefferson Davis Shrine.
39-5-53.	Transfer of Beauvoir Veterans Home to United Sons of Confederate Veterans.
39-5-55.	Control and management of Jefferson Davis Shrine.
39-5-57.	Deposit of objects, documents, etc., in museum at Jefferson Davis Shrine.

§ 39-5-51. Establishment of Jefferson Davis Shrine.

The complete custody, management, control and ownership of that portion of Beauvoir, (a tract of land comprising eighty-seven and one-half acres, more or less, in Harrison County, Mississippi, fronting 1020 feet, more or less, on the Gulf of Mexico, and situated approximately eight miles from the City of Gulfport, and four miles from the City of Biloxi, on "The Old Spanish Trail", and being the same property conveyed the Mississippi division of the United Sons of Confederate Veterans on the 10th day of October, A. D. 1902, by Mrs. Varina Jefferson Davis, wife of Jefferson Davis, by deed of record in the land records of Harrison County, Mississippi, and said property being further described as the last home of Jefferson Davis, president of the Confederate States of America) lying west of a line running north and south from the southern to the northern boundary of said property and said line being equidistant between brick building on said property now used as an infirmary or hospital and the small frame building situated to the front and east of that building known as Beauvoir residence, and said small frame building being known as the office of Jefferson Davis and in which he wrote "The Rise and Fall of the Confederate Government" is hereby awarded and returned and completely relinquished by the State of Mississippi to the Mississippi division of the United Sons of Confederate Veterans, a Mississippi corporation, for the purpose of establishing and maintaining a shrine sacred to the memory of Jefferson Davis with full authority to do any and all things necessary in the discretion of the Mississippi division of the United Sons of Confederate Veterans for the establishment and maintenance of said shrine and for the beautification, repair, preservation, alteration or protection of said property herein awarded and relinquished to the Mississippi division of the United Sons of Confederate Veterans or any part thereof.

SOURCES: Codes, 1942, § 7456; Laws, 1940, ch. 315.

RESEARCH REFERENCES

Law Reviews. Historic Preservation of the Zoning Power: A Mississippi Perspective. 50 Miss. L. J. 533, September, 1979.

§ 39-5-53. Transfer of Beauvoir Veterans Home to United Sons of Confederate Veterans.

There is hereby declared to be a cessation of further need for that portion of Beauvoir known as the Veterans Home and the same is hereby transferred to the United Sons of Confederate Veterans in accordance with the deed of Mrs. Varina Davis, wife of Jefferson Davis, conveying Beauvoir to the Mississippi Division of the Sons of Confederate Veterans.

SOURCES: Codes, 1942, § 7447-01; Laws, 1955, Ex Sess, ch. 126, § 1, eff 60 days after passage (approved March 30, 1955).

§ 39-5-55. Control and management of Jefferson Davis Shrine.

The control and management of Beauvoir, the Jefferson Davis Shrine, at Biloxi, Mississippi, shall be vested in the Board of Directors and Board of Trustees as provided for in the charter of incorporation of the Mississippi Division of the United Sons of Confederate Veterans as recorded by the Secretary of State on July 2, 1954, which charter being in accordance with the terms of the deed of Mrs. Varina Davis, dated October 10, 1902, whereby all title and control of Beauvoir is vested in the Mississippi Division of the United Sons of Confederate Veterans.

SOURCES: Codes, 1942, § 7460; Laws, 1940, ch. 315; Laws, 1955, Ex Sess, ch. 126, § 2, eff 60 days after passage (approved March 30, 1955).

Cross References — Board of Trustees of the Department of Archives and History generally, see §§ 39-5-3.

§ 39-5-57. Deposit of objects, documents, etc., in museum at Jefferson Davis Shrine.

The director of the department of archives and history is hereby authorized to deposit from time to time either in the residence at Beauvoir or in any building thereon maintained as a museum or library any objects, documents or archives which, in the opinion of said director, might be fittingly placed at Beauvoir. The director of the department of archives and history may, in his discretion, withdraw any object, document or archive so placed at Beauvoir. No object, document or archive shall be placed at Beauvoir by the director of the department of archives and history without the consent of the board of trustees of the Jefferson Davis Shrine referred to in section 39-5-55.

SOURCES: Codes, 1942, § 7459; Laws, 1940, ch. 315.

Cross References — Director of Department of Archives and History, see 39-5-7.

FILES OF STATE SOVEREIGNTY COMMISSION

Sec.
39-5-61. Files and equipment of state sovereignty commission placed in custody of department; when files become public records.
39-5-63. Willful tampering with files.
39-5-65. Display of penalties for tampering with files.

§ 39-5-61. Files and equipment of state sovereignty commission placed in custody of department; when files become public records.

The files and equipment of the state sovereignty commission are hereby placed in the custody of the department of archives and history. Said files shall be immediately sealed, impounded and maintained as confidential files by the department of archives and history. Any equipment may be used by the department of archives and history in the furtherance of the activities of the said department. On July 1, 2027, such files shall become public records under the custody and control of the department of archives and history.

SOURCES: Laws, 1977, ch. 320, § 2, eff from and after passage (approved March 4, 1977).

Cross References — Mississippi Department of Archives and History generally, see § 39-5-1.

JUDICIAL DECISIONS

1. In general.

Statute which would have allowed all sealed files of former Mississippi State Sovereignty Commission, which had gathered personal information about Mississippi citizens with purpose of thwarting desegregation, to be opened in year 2027 was unconstitutional, and any files sealed pursuant to request of victims named in files would remain permanently sealed; any victim entitled to privacy in avoiding public disclosure at time of suit would be entitled to same right of privacy in year 2027. American Civil Liberties Union v. Fordice, 969 F. Supp. 403 (S.D. Miss. 1994), aff'd, 84 F.3d 784 (5th Cir. 1996), cert. denied, 519 U.S. 992, 117 S. Ct. 481, 136 L. Ed. 2d 375 (1996).

Sections 39-5-61 through 39-5-65, sealing for 50 years the records of the Mississippi Sovereignty Commission did not create an evidentiary privilege compelling respect by a federal court trying a 42 USCS § 1983 action alleging in part that officials of the commission violated plaintiffs' First Amendment and other constitutional rights by harassment and by surveillance of their lawful activities. American Civil Liberties Union of Miss., Inc. v. Finch, 638 F.2d 1336 (5th Cir. 1981), vacated on other grounds and remanded, 911 F.2d 1066 (5th Cir. 1990).

§ 39-5-63. Willful tampering with files.

Any person who shall willfully break any seal containing the impounded files of the state sovereignty commission, or willfully examine, divulge, disseminate, alter, remove or destroy said files prior to July 1, 2027, shall, upon conviction, be fined not less than one thousand dollars ($1,000.00) nor more than five thousand dollars ($5,000.00) or imprisoned for not more than three (3) years, or punished by both such fine and imprisonment.

SOURCES: Laws, 1977, ch. 320, § 4, eff from and after passage (approved March 4, 1977).

JUDICIAL DECISIONS

Permanent injunction has been issued to prevent enforcement of § 39-5-63 because this act and others relating to sealing of files of state sovereignty commission, which had a clandestine purpose of perpetuating racial inequality, unconstitutionally infringe on black citizens' rights to free speech and association, personal privacy, and lawful search and seizure. American Civil Liberties Union of Miss., Inc. v. Mabus, 719 F. Supp. 1345 (S.D. Miss. 1989), vacated, 911 F.2d 1066 (5th Cir. 1990), reh'g denied, 919 F.2d 735 (5th Cir. 1990), on remand, 969 F. Supp. 403 (S.D. Miss. 1994).

§ 39-5-65. Display of penalties for tampering with files.

The department of archives and history shall conspicuously display the penalties prescribed by Section 39-5-63 in one or more places on each container or cabinet in which the files of the state sovereignty commission are impounded.

SOURCES: Laws, 1977, ch. 320, § 5, eff from and after passage (approved March 4, 1977).

Cross References — Department of Archives and History generally, see § 39-5-1 et seq.

JUDICIAL DECISIONS

Permanent injunction has been issued to prevent enforcement of § 39-5-63 because this act and others relating to sealing of files of state sovereignty commission, which had a clandestine purpose of perpetuating racial inequality, unconstitutionally infringe on black citizens' rights to free speech and association, personal privacy, and lawful search and seizure. American Civil Liberties Union of Miss., Inc. v. Mabus, 719 F. Supp. 1345 (S.D. Miss. 1989), vacated, 911 F.2d 1066 (5th Cir. 1990), reh'g denied, 919 F.2d 735 (5th Cir. 1990), on remand, 969 F. Supp. 403 (S.D. Miss. 1994).

LAW ENFORCEMENT OFFICERS' MONUMENT

SEC.
39-5-71. Construction of monument.

§ 39-5-71. Construction of monument.

(1) The Board on Law Enforcement Officer Standards and Training, in cooperation with the Department of Archives and History and the Bureau of Building, Grounds and Real Property Management, is hereby authorized, subject to funds being made available, to cause to be constructed and

maintained on state-owned lands at some suitable and appropriate place in or near the City of Jackson, a monument containing the names and paying tribute to all state, county and municipal law enforcement officers who have given their lives in the performance of their official duties. This shall include any federal law enforcement officer employed and residing in Mississippi at the time of death.

It is the intent of the Legislature that adequate space be left on the monument to be available to add names of law enforcement officers in the future who give their lives in the performance of their official duties.

(2) The Board on Law Enforcement Officer Standards and Training is hereby authorized to accept gifts, grants and donations from individuals and organizations, to be deposited in the Law Enforcement Officers Monument Fund which is hereby created as a special fund in the State Treasury. The State Treasurer shall invest all monies in the fund and any interest earned shall be deposited into the fund. All funds deposited in the fund, including interest earned thereon, shall be used for the purpose of fund-raising, erecting and maintaining the monument as provided in subsection (1) of this section. The funds may be used for any fund-raising activity the board deems necessary for the construction and maintenance of the monument. Any monies remaining unexpended or unencumbered in the fund upon completion of the monument shall revert to the Board on Law Enforcement Officer Standards and Training for maintenance of the monument.

SOURCES: Laws, 1989, ch. 366, § 1; Laws, 2000, ch. 352, § 1, eff from and after July 1, 2000.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in subsection (1). The word "Buildings" was changed to "Building" preceding "Grounds and Real Property Management." The Joint Committee ratified the correction at its May 31, 2006 meeting.

Cross References — Department of Archives and History generally, see §§ 39-5-1 et seq.

WILLIAM JOHNSON HOUSE

SEC.
39-5-81. Purchase and restoration.

§ 39-5-81. Purchase and restoration.

The Mississippi Department of Archives and History is hereby authorized and empowered to purchase and restore the William Johnson house, a "Mississippi Landmark," in Natchez, Mississippi, when adequate funds for the purchase and restoration thereof are deposited in the Historic Properties Trust Fund herein created. The funds used for this purpose shall be drawn from those contributions to the trust fund which have been earmarked for the William Johnson House or which have been undesignated as to their use.

SOURCES: Laws, 1987, ch. 374, § 1, eff from and after passage (approved March 19, 1987).

Cross References — Mississippi Department of Archives and History generally, see §§ 39-5-1 et seq.

ATTORNEY GENERAL OPINIONS

Measure to purchase furnishings belonging in Mississippi landmark house is special appropriations bill; Department of Archives and History is authorized to requisition necessary funds if and when they become available, without necessity of further action by Legislature, provided funds on hand are sufficient to cover proposed obligation. Hilliard, Jan. 11, 1990, A.G. Op. #90-0021.

MISSISSIPPI CIVIL WAR BATTLEFIELD COMMISSION

SEC.
39-5-91. Creation of Civil War Battlefield Commission; duties and responsibilities of commission.

§ 39-5-91. Creation of Civil War Battlefield Commission; duties and responsibilities of commission.

(1) There is hereby created a Mississippi Civil War Battlefield Commission consisting of the following fifteen (15) members:

(a) Nine (9) members appointed by the Governor with three (3) serving for an initial term concluding on March 1, 1998, three (3) serving for an initial term concluding on March 1, 2000, and three (3) serving for an initial term concluding on March 1, 2002;

(b) One (1) member appointed by the Lieutenant Governor for an initial term concluding on March 1, 2002;

(c) One (1) member appointed by the Speaker of the Mississippi House of Representatives for an initial term concluding on March 1, 2002;

(d) One (1) member appointed by the Jackson Civil War Roundtable for an initial term concluding on March 1, 2002; and

(e) Three (3) members appointed by the Board of Trustees of the Department of Archives and History for an initial term concluding on March 1, 2002.

After the initial terms, all terms shall be for six (6) years. An appointment to fill a vacancy which arises for reasons other than by expiration of a term of office shall be made by the respective appointing authority for the unexpired term only.

(2) The commission shall elect from its membership a chairman who shall preside over meetings and a vice chairman who shall preside in the absence of the chairman or when the chairman shall be excused.

(3) The commission shall adopt rules and regulations governing times and places for meetings. A majority of members of the commission shall constitute a quorum for the transaction of any business. The commission shall meet at

least quarterly. The commission may form subcommittees to address specific issues concerning preservation and enhancement of Civil War sites and structures. The commission may adopt other procedures necessary to ensure the orderly transaction of business.

(4) The members of the commission shall receive no compensation for their services.

(5) Principal staff support for the commission shall be provided by the Department of Archives and History. Other agencies shall assist when requested by the commission.

(6) The commission shall have the following duties:

(a) Identify and prioritize for protecting Mississippi's Civil War sites and structures;

(b) Identify, analyze and enhance preservation opportunities for Mississippi's Civil War sites and structures;

(c) Review existing local, state and federal plans, programs and policies related to Mississippi's Civil War sites and structures;

(d) Develop relationships with federal and local officials and private conservation organizations which facilitate protection and enhancement of Civil War sites and structures;

(e) Coordinate Mississippi's participation with the federal government and private foundations to secure support and financial resources for the protection and enhancement of Civil War sites and structures;

(f) Advise state agencies on matters relating to Civil War sites and structures; and

(g) Perform any other such duties or actions in an effort to advance Civil War history in Mississippi.

(7) The commission shall submit to the Governor an annual report by December 1 of each year which shall include recommendations for any legislative, administrative or other changes the commission deems necessary to further Civil War history in Mississippi.

(8) State agencies shall consider the impact of their actions on Civil War sites and structures as identified by the commission whenever permitting, planning, funding or undertaking any construction projects.

SOURCES: Laws, 1997, ch. 349, § 1, eff from and after July 1, 1997.

Cross References — Department of Archives and History generally, see §§ 39-5-1 et seq.

ATTORNEY GENERAL OPINIONS

There is no authority for the Department of Archives and History to reimburse members of the Civil War Battlefield Commission for travel expenses. Hilliard, September 4, 1998, A.G. Op. #98-0503.

MISSISSIPPI DE SOTO TRAIL COMMISSION

SEC.
39-5-101. Short title.
39-5-103. Definitions.
39-5-105. Creation of De Soto Trail Commission; composition; appointment of members.
39-5-107. Terms of office and compensation of members of commission; acceptance of gifts, donation, etc.; deposit of funds.
39-5-109. Election of officers and adoption of rules and regulations; use of existing research.
39-5-111. Erection of markers.
39-5-113. Duties and responsibilities of commission.

§ 39-5-101. Short title.

Sections 39-5-101 through 39-5-113 shall be known and may be cited as the "Mississippi De Soto Trail Commission Act."

SOURCES: Laws, 1988, ch. 593, § 1, eff from and after passage (approved May 25, 1988).

Cross References — Designation of a Hernando de Soto holiday, see § 3-3-7.
Designation of the first week in May as Hernando do Soto Week, see § 3-3-8.

§ 39-5-103. Definitions.

For the purposes of Sections 39-5-101 through 39-5-113, the following words shall have the meanings ascribed herein unless the context shall otherwise require:

(a) "United States De Soto Expedition Commission" means the commission which was created by Public Resolution 57 of the Seventy-fourth Congress and approved August 26, 1935.

(b) "Final Report of the United States De Soto Expedition Commission" means the final report and recommendation of the commission to Congress which was required by Public Resolution 57 of the Seventy-fourth Congress. Such document is identified as House Document Number 71, 76th Congress, 1st Session, printed by the United States Government Printing Office in 1939, and reprinted in 1985 in the Smithsonian Institution's Classics of Anthropology Series.

SOURCES: Laws, 1988, ch. 593, § 2, eff from and after passage (approved May 25, 1988).

§ 39-5-105. Creation of De Soto Trail Commission; composition; appointment of members.

There is hereby created in this state a De Soto Trail Commission, which shall be composed of one (1) representative from each state university to be appointed by the president of that institution and one (1) member from each county through which the Hernando de Soto Expedition traveled based on the alternate routes of the Final Report of the United States De Soto Expedition Commission. The county members of the commission shall be appointed by the Governor.

Four (4) additional members from the state at large shall be appointed by the Board of Trustees of the Department of Archives and History. The director of the Department of Archives and History shall serve as an ex officio member of the commission. The Department of Archives and History shall provide support services for the commission's meetings.

SOURCES: Laws, 1988, ch. 593, § 3, eff from and after passage (approved May 25, 1988).

Cross References — Department of Archives and History generally, see §§ 39-5-1 et seq.

Board of Trustees of the Department of Archives and History, see §§ 39-5-7.

§ 39-5-107. Terms of office and compensation of members of commission; acceptance of gifts, donation, etc.; deposit of funds.

(1) The members of the De Soto Trail Commission shall serve for a term of four (4) years beginning July 2, 1988. Their successors shall be appointed in the manner provided for the members first appointed, and a vacancy occurring before the expiration of a term shall be similarly filled for the unexpired term. The Governor shall fill all vacancies within sixty (60) days after such vacancy occurs. Vacancies that have not been filled within sixty (60) days shall be filled by appointments made by the Board of Trustees of the Department of Archives and History. Any member of the commission may be reappointed by the Governor to serve additional terms. A member of the commission may be removed only for disability, neglect of duty, or incompetence in office. A member shall be entitled to a hearing before removal from office.

(2) Members of the commission shall serve without compensation, expense allowance, or mileage allowance. The commission shall be authorized to accept gifts, donations and/or contributions from individuals, businesses, organizations, governmental entities and from any other sources for the purposes set forth herein. No funds shall be appropriated to the commission by the Legislature.

(3) Any funds or donations received by the commission shall be deposited by the Department of Archives and History into a special fund which is hereby created in the State Treasury, and disbursements therefrom shall be made upon warrants by the State Fiscal Management Board after receipt of requisitions submitted by the Department of Archives and History upon authorization by the commission. Monies in the special fund may be used by the commission in preparing and filing reports and in fulfilling its duties and responsibilities under Sections 39-5-101 through 39-5-113.

SOURCES: Laws, 1988, ch. 593, § 4, eff from and after passage (approved May 25, 1988).

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Cross References — Board of Trustees of the Department of Archives and History, see §§ 39-5-7.

§ 39-5-109. Election of officers and adoption of rules and regulations; use of existing research.

The De Soto Trail Commission shall meet within thirty (30) days after the last member has been appointed for the purpose of electing officers and adopting rules and regulations. The commission shall use the Final Report of the United States De Soto Expedition Commission as a preliminary basis for its work and shall take cognizance of such scholarly archaeological and historical research pertaining to the problem of De Soto's route as has appeared since the completion of the commission's work.

SOURCES: Laws, 1988, ch. 593, § 5, eff from and after passage (approved May 25, 1988).

§ 39-5-111. Erection of markers.

The commission shall designate specific sites for erection of appropriate markers along Hernando de Soto's journey of one hundred eighty-seven (187) days through Mississippi from the Tombigbee River basin on our state's eastern boundary, westward to the place of discovery of the Mississippi River on May 8, 1541.

The commission shall be authorized to purchase appropriate markers from any of its available funds. The texts for the De Soto Trail markers shall be approved by the Department of Archives and History. The State Highway Department shall cooperate with the commission and Department of Archives and History by erecting and maintaining the markers that have been approved by the commission.

SOURCES: Laws, 1988, ch. 593, § 6, eff from and after passage (approved May 25, 1988).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Department of Archives and History generally, see §§ 39-5-1 et seq.

§ 39-5-113. Duties and responsibilities of commission.

The commission shall cooperate and work with the citizens and elected officials in the various counties where the trail is located and shall promote and publicize the De Soto Trail in this state and abroad. The commission will strive to reconcile local interests with the results of bona fide scholarly research.

The commission shall encourage and support Mississippi's participation in the regional De Soto Trail Commission that is comprised of representatives from the states through which the De Soto Expedition traveled. The commission shall cooperate with the Regional De Soto Trail Commission and the National Park Service in their efforts to establish a National De Soto Trail as part of the National Trails System.

The commission shall support and encourage scholarly research in archaeology and history related to the De Soto Expedition. The Department of Archives and History shall undertake to publish the results of such research in The Journal of Mississippi History or Mississippi Archaeology in order to make the results of the research available to the citizens of Mississippi.

The commission shall plan, promote, and coordinate a statewide commemoration or festival which shall be held in May, 1991 in recognition of the 450th anniversary of Hernando de Soto's Expedition in our state, and may schedule other appropriate ceremonies to commemorate the De Soto Expedition.

The commission shall file with the Legislature and Governor a complete report of its activities by August 30 of each year. The commission's minutes and other permanent records shall be deposited in the Department of Archives and History.

SOURCES: Laws, 1988, ch. 593, § 7, eff from and after passage (approved May 25, 1988).

Cross References — Department of Archives and History generally, see §§ 39-5-1 et seq.

ASSEMBLY HALL

SEC.
39-5-115. Acquisition and restoration.
39-5-117. Operation of restored hall.

§ 39-5-115. Acquisition and restoration.

(1) The Department of Archives and History is hereby authorized to acquire and restore, by reconstruction, the Assembly Hall, a Mississippi Landmark Property in Washington, Mississippi, if the board of trustees of the department determines that sufficient architectural, historical and photographic documentation exists to achieve an accurate restoration.

(2) The Department of Finance and Administration is authorized, based upon recommendations of the board of trustees of the Department of Archives and History, to utilize monies designated for the Assembly Hall project in Chapter 564, General Laws of 1993, to pay the cost of acquiring the Assembly Hall property and of restoring (by reconstruction) and interpreting Assembly Hall.

SOURCES: Laws, 1993, ch. 491, § 1; Laws, 1994, ch. 370, § 1, eff from and after passage (approved March 14, 1994).

Cross References — Department of Archives and History generally, see §§ 39-5-1 et seq.

§ 39-5-117. Operation of restored hall.

Once restored, the Assembly Hall will be operated by the Department of Archives and History in conjunction with the Jefferson College Property in Washington, Mississippi.

SOURCES: Laws, 1993, ch. 491, § 2, eff from and after passage (approved March 27, 1993).

Cross References — Department of Archives and History generally, see §§ 39-5-1 et seq.

SHAIFER HOUSE AND PORT GIBSON BATTLEFIELD

Sec.	
39-5-121.	Restoration and operation of Shaifer House and accompanying land on Port Gibson Battlefield.
39-5-123.	Cooperative agreements authorized.

§ 39-5-121. Restoration and operation of Shaifer House and accompanying land on Port Gibson Battlefield.

The Mississippi Department of Archives and History is authorized to secure, preserve, restore, develop, interpret, operate and maintain the historic Shaifer House and accompanying land located on the Port Gibson Battlefield, subject to the appropriation of adequate funds by the Legislature.

SOURCES: Laws, 1999, ch. 563, § 2, eff from and after passage (approved Apr. 21, 1999).

Editor's Note — Laws of 1999, ch. 563, § 1, as amended by Laws of 2002, ch. 435, § 1, provides as follows:

"SECTION 1. (1) The Department of Finance and Administration, on behalf of the State of Mississippi, may convey all right, title and interest in certain state-owned real property located in Claiborne County, Mississippi, to the State of Mississippi, for the use and benefit of the Mississippi Department of Archives and History, the property being known as the historic Shaifer House and accompanying land located on the Port Gibson Battlefield, and being more particularly described as follows:

"Tract No. 1: That certain tract of land known as the old Shaifer house tract; for survey, begin at point on the southerly side of the public road, where it is intersected by the line between Parcels 1 and 2 of the partition of the Shaifer Estate property as described in partition deed executed by us and now recorded Book 10-B, page 177 of the land records of said county, and which partition deed together with the plat recorded therewith is here referred to for full description of the location of said starting point, and run thence in a northeasterly direction along said old Port Gibson and Rodney public road, 1307 feet to point where said road is intersected on its North side by a fence, and which point is point of beginning for survey of this tract (and which point is further located as being North 88 45′ East 1434.67 feet from the most eastern corner of Section 16, Township 11 North, Range 2 East). From said point of beginning run thence along fence, North 35 West 134 feet; thence continue along fence, South 35° West 15 feet, South 86° West 16 feet to fence corner; thence along another fence, North 40° West 191 feet to fence corner; thence along another fence, North 40° East 160 feet; thence continue along fence, North 64° East 217 feet to point on private farm road; thence along said road, South 31° 45′ East 372 feet to point where the same forks; thence along the fork going southwesterly 100 feet to old Port Gibson and Rodney public/road; thence along said old Port Gibson and Rodney public road, in a southwesterly direction, 225 feet to point of beginning. Said tract contains 3.0 acres, more or less, and lies in Section Twelve (12), Township Eleven (11) North, Range Two (2) East. Said land is the same as is fully described in Section V of said above mentioned partition deed executed by the grantors, now recorded Book 10-B, page 177 of the deed records of said Claiborne County, which is here referred to in aid of description and for all purposes. All of the above is in accordance with survey made by R.D. Wade, Jr., and copy of plat of his survey is attached hereto and made a part hereof by reference.

"Tract No. 2: That certain tract of land being the site of the old Magnolia Church; to arrive at point of beginning for survey of this tract, begin at the most eastern corner of Section Sixteen (16), Township Eleven (11) North, Range Two (2) East, and run thence South 74° 34′ East 2,917.7 feet to stake on South side of public road, and run thence South 84° 45′ East 49 feet to fence corner on South side of said road, which is point of beginning for survey of this tract; and which point is also the point where the East line of Parcel 2 in the partition of the Shaifer Estate property as described in partition deed executed by us and now recorded Book 10-B, page 177 of the land records of said Claiborne County, intersects said public road, and which partition deed, together with plat recorded therewith, is here referred to in aid of description of location of said starting point. From said point of beginning, continue thence along road, South 84° 45′ East 282.04 feet to stake in fence and property line; thence along fence and property line, South 46° West 396 feet to stake in fence corner; thence along fence (which is the East line of Parcel 2 of the partition above referred to), North 17 East 109 feet, North 16° East 69 feet, North 2°, West 52 feet and North 16° West 78 feet to point of beginning. Said tract contains 1.29 acres, more or less, and lies in Section Twelve (12), Township Eleven (11) North, Range Two (2) East.

"The Secretary of State shall approve this conveyance and join in this conveyance for all purposes.

"(2) The Department of Finance and Administration, on behalf of the State of Mississippi and the Grand Gulf Military Monument Commission, may convey all right, title and interest in certain state-owned real property located in Claiborne County, Mississippi, to the State of Mississippi, for the use and benefit of the Mississippi Department of Archives and History, the property being two (2) tracts of land that were donated to the State of Mississippi for the use and benefit of the Grand Gulf Military Monument Commission in January of 1980, by Mr. A.K. Shaifer, and being more particularly described as follows:

"Tract No. 1: A tract of land which adjoins the tract sometimes known as the old Shaifer house tract and which old Shaifer house tract is Tract No. 1 in the deed from A.K. Shaifer, S.B. Shaifer, Laura P. Shaifer, and Estelle S. Montgomery to the State of Mississippi for the use and benefit of the Grand Gulf Military Monument Commission, which was executed on December 28, 1979, and recorded in Book 10-F, page 425-430 of the deed records of said Claiborne County. For survey of this tract, begin at the most southerly or southwesterly corner of said old Shaifer house tract as described in said above mentioned deed and which is on the northerly side of the public road running through said old Shaifer property and which deed is here referred to for description of location of the starting point hereof; from said point of beginning, run thence along the northerly wayline of said public road South 67 degrees 45′ West 70 feet to stake; thence leave road and run thence North 52 degrees 30′ West 843.05 feet to stake; thence run North 43 degrees 31′ East 631.74 feet to stake on Easterly side of private ridge road; thence along the easterly side of said ridge road South 44 degrees 30′ East 195 feet, South 39 degrees 28′ East 290 feet, South 37 degrees 45′ East 111 feet to stake on Northerly or Northeasterly corner of said Shaifer house tract; thence around said old Shaifer house tract site South 64 degrees West 217 feet; thence South 40 degrees West 191 feet; thence South 40 degrees East 190 feet; thence South 86 degrees East 16 feet; thence North 35 degrees East 15 feet; thence South 35 degrees East 134 feet to point of beginning. Said tract contains 8.32 acres, more or less, and lies in Section 12, Township 11 North, Range 2 East, all in accordance with survey made by R.D. Wade, Jr. dated September 4, 1979, which is attached hereto as Exhibit "A" and made a part hereof for all purposes. Said tract is the same as is described in Tract No. 1 of the Deed of Gift from A.K. Shaifer to the State of Mississippi for the use and benefit of the Grand Gulf Military Monument Commission executed on January 18, 1980, and recorded in Book 10-H, page 9-13.

"Tract No. 2: A tract of land which adjoins the site of the old Magnolia Church and which Magnolia Church site is Tract No. 2 in the above mentioned deed from A.K. Shaifer, S.B. Shaifer, Laura P. Shaifer, and Estelle S. Montgomery to the State of Mississippi for the use and benefit of the Grand Gulf Military Monument Commission. For survey of the tract hereby conveyed, begin at the Northwest corner of the said old Magnolia Church site as described in said deed above referred to and which deed is here referred to for description of location of said starting point; from said starting point, run thence South 16 degrees East 78 feet; thence run South 2 degrees East 52 feet; thence run South 16 degrees West 69 feet; thence run South 17 degrees West 109 feet to stake at southerly corner of said old Magnolia Church site; run thence North 79 degrees 34′ West 364.04 feet to stake; thence North 53 degrees 45′ East 396 feet to stake; thence South 84 degrees 45′ East 49 feet to point of beginning. Said tract contains 1.87 acres, more or less, and lies in Section 12, Township 11 North, Range 2 East; all of the above in accordance with survey made by R.D. Wade, Jr. dated September 4, 1979, and plat of survey showing this tract and the old Magnolia Church site referred to above is attached hereto as Exhibit 'B' and made a part hereof for all purposes. Said tract is the same as is described in Tract No. 2 of the Deed of Gift from A.K. Shaifer to the State of Mississippi for the use and benefit of the Grand Gulf Military Monument Commission executed on January 18, 1980, and recorded in Book 10-H, page 9-13.

"The Secretary of State shall approve this conveyance and join in this conveyance for all purposes."

Cross References — Mississippi Department of Archives and History generally, see §§ 39-5-1 et seq.

§ 39-5-123. Cooperative agreements authorized.

The Board of Trustees of the Mississippi Department of Archives and History is authorized to enter into cooperative agreements with the National Park Service, state and local governmental entities, nonprofit organizations, and any other groups, organizations or individuals that may be interested in the preservation and development of the Shaifer House and accompanying land and the Port Gibson Battlefield.

SOURCES: Laws, 1999, ch. 563, § 3, eff from and after passage (approved Apr. 21, 1999).

Cross References — Board of Trustees of the Department of Archives and History generally, see § 39-5-3.

COKER HOUSE AND CHAMPION HILL BATTLEFIELD

Sec.	
39-5-131.	Restoration and operation of Coker House and accompanying land on Champion Hill Battlefield.
39-5-133.	Cooperative agreements authorized.

§ 39-5-131. Restoration and operation of Coker House and accompanying land on Champion Hill Battlefield.

The Mississippi Department of Archives and History is authorized to secure, preserve, restore, develop, interpret, operate, and maintain the historic Coker House and accompanying land on the Champion Hill Battlefield as an official state historic site.

SOURCES: Laws, 2000, ch. 444, § 2, eff from and after passage (approved Apr. 18, 2000.)

Editor's Note — Laws of 2000, ch. 444, § 1, provides as follows:

"SECTION 1. The Mississippi Department of Archives and History, on behalf of the State of Mississippi, is authorized to accept the donation of all right, title, and interest in certain real property located in Hinds County, Mississippi, from Jackson Civil War Round Table, Inc., a nonprofit Mississippi corporation, the property being known as the historic Coker House and accompanying land located on the Champion Hill Battlefield, and being more particularly described as follows:

"A certain tract of land situated in the Northwest Quarter of the Southeast Quarter of Section 1, Township 5 North, Range 4 West, Hinds County, Mississippi, containing 5.00 acres and being more particularly described as follows: Commencing at a ¾″ galvanized pipe, marking the Southeast corner of Section 1, Township 5 North, Range 4 West, Hinds County, Mississippi; run thence North 53° 15′ West for 2717.47 feet to a point in a fence, said point hereinafter referred to as the point of beginning: Thence North 79° 31′ West along said fence for 67.16 feet; Thence North 71° 13′ West along said fence for 259.57 feet; Thence North 78° 39′ West along said fence for 30.04 feet; Thence 47° 52′ West for 27.94 feet to the East line of a paved road; Thence North 42° 08′ East along the East line of said road for 618.46 feet to the South line of Mississippi State Highway 467; Thence South 70° 44′ East along the South line of said highway for 379.06 feet; Thence South 42° 09′ West for 612.27 feet to the point of beginning; together with historic dwelling situated thereon, known as "The Coker House."

"The Secretary of State shall approve this conveyance and join in this conveyance for all purposes."

Mississippi Department of Archives and History generally, see §§ 39-5-1 et seq.

§ 39-5-133. Cooperative agreements authorized.

The Board of Trustees of the Mississippi Department of Archives and History is authorized to enter into cooperative agreements with the National Park Service, state and local government entities, nonprofit organizations, and any other groups, organizations or individuals that may be interested in the preservation and development of the Coker House and accompanying land and the Champion Hill Battlefield.

SOURCES: Laws, 2000, ch. 444, § 3, eff from and after passage (approved Apr. 18, 2000.)

Cross References — Board of Trustees of the Department of Archives and History generally, see § 39-5-3.

GRANT ASSISTANCE FOR PRESERVATION OF HISTORIC COUNTY COURTHOUSES, SCHOOL BUILDINGS, AND OTHER HISTORIC PROPERTIES

SEC.
39-5-141. Legislative findings.
39-5-143. Definitions.
39-5-145. Mississippi Community Heritage Preservation Grant Fund.

§ 39-5-141. Legislative findings.

The Legislature recognizes that the heritage of Mississippi is reflected in the historic courthouses, schools, and other historic properties located in communities across the state. The Legislature further recognizes that the preservation, restoration and interpretation of these historic properties is of great cultural, educational and economic importance to Mississippi.

SOURCES: Laws, 2001, ch. 541, § 19, eff from and after passage (approved Apr. 7, 2001.)

Editor's Note — Sections 22 through 36 of Laws of 2001, ch. 541 provided for the issuance of general obligation bonds to provide funding for the Mississippi Community Heritage Preservation Grant Fund.

§ 39-5-143. Definitions.

As used in Sections 39-5-143 and 39-5-145 and Sections 22 through 36 of Laws, 2001, ch. 541, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Board" means the Board of Trustees of the Department of Archives and History.

(b) "Certified local government" means a county or municipality in the State of Mississippi that has established its own historic preservation commission and program meeting federal and state standards and has obtained certification of such action from the Department of Archives and History and the National Park Service.

(c) "Commission" means the State Bond Commission.

(d) "Historic property" means a building, site, structure or monument of historical significance as defined by the Department of Archives and History.

(e) "Interpretation" means an historical exhibit design, interpretive or commemorative marker or monument, publication, program, or other instructional techniques that present and interpret history from broad cultural and ethnic perspectives.

(f) "State" means the State of Mississippi.

SOURCES: Laws, 2001, ch. 541, § 20, eff from and after passage (approved Apr. 7, 2001.)

Editor's Note — Sections 22 through 36 of Laws of 2001, ch. 541 provided for the issuance of general obligation bonds to provide funding for the Mississippi Community Heritage Preservation Grant Fund.

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 39-5-145. Mississippi Community Heritage Preservation Grant Fund.

(1) A special fund, to be designated the "Mississippi Community Heritage Preservation Grant Fund," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. The fund shall consist of any monies designated for deposit therein from any source, including proceeds of any state general obligation bonds designated for deposit therein. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned or investment earnings on amounts in the fund shall be deposited into the fund. The expenditure of monies deposited into the fund shall be under the direction of the Department of Finance and Administration, based upon recommendations of the Board of Trustees of the Department of Archives and History, and such funds shall be paid by the State Treasurer upon warrants issued by the Department of Finance and Administration. Monies deposited into such fund shall be allocated and disbursed according to the provisions of this section. If any monies in the special fund are derived from proceeds of state general obligation bonds and are not used within four (4) years after the date such bond proceeds are deposited into the special fund, then the Department of Finance and Administration shall provide an accounting of such unused monies to the State Bond Commission.

(2) Monies deposited into the fund shall be allocated and disbursed as follows:

(a)(i) Thirty-two Million Seven Hundred Thousand Dollars ($32,700,000.00) shall be allocated and disbursed as grants on a reimbursable basis through the Department of Finance and Administration, based upon the recommendations of the Board of Trustees of the Department of Archives and History, to assist county governments, municipal governments, school districts and nonprofit organizations that have obtained Section 501(c)(3) tax-exempt status from the United States Internal Revenue Service in helping pay the costs incurred in preserving, restoring, rehabilitating, repairing or interpreting 1. historic county courthouses, 2. historic school buildings, and/or 3. other historic properties identified by certified local governments. Where possible, expenditures from the fund shall be used to match federal grants or other grants that may be accessed by the Department of Archives and History, other state agencies, county governments or municipal governments, school districts or nonprofit organizations that have obtained Section 501(c)(3) tax-exempt status from the United States Internal Revenue Service. Any properties, except those described in paragraphs (b) and (d) of this subsection, receiving monies pursuant to this section must be designated as "Mississippi Landmark" properties prior to selection as projects for funding under the provisions of this section.

(ii) One Million Seven Hundred Fifty Thousand Dollars ($1,750,000.00) shall be allocated and disbursed as grants through the Department of Finance and Administration, based upon the recommendations of the Board of Trustees of the Department of Archives and History, to assist county governments in helping pay the costs of historically appropriate restoration, repair and renovation of historically significant county courthouses. Grants to individual courthouses under this paragraph (a)(ii) shall not exceed Eight Hundred Seventy-five Thousand Dollars ($875,000.00).

(b) Two Hundred Fifty Thousand Dollars ($250,000.00) shall be allocated and disbursed as grant funds to the Amory Regional Museum in Amory, Mississippi, to pay the costs of capital improvements, repair, renovation, furnishing and/or equipping of the museum. The Department of Finance and Administration is directed to transfer Two Hundred Fifty Thousand Dollars ($250,000.00) from the fund to the city on or before December 31, 2004, and the city shall place the funds into an escrow account. The city may expend the funds from the account only in an amount equal to matching funds that are provided from any source other than the state for the project. As the funds are withdrawn from the escrow account, the city shall certify to the Department of Finance and Administration the amount of the funds that have been withdrawn and that the funds withdrawn are in an amount equal to matching funds required by this paragraph.

(c) One Hundred Thousand Dollars ($100,000.00) shall be allocated and disbursed as grant funds to the Jacinto Foundation, Inc., to pay the costs of capital improvements, repairing, renovating, restoring, rehabilitating, preserving, furnishing and/or equipping the courthouse and related facilities in Jacinto, Mississippi, and to pay the costs of capital improvements, repairing, renovating, restoring, rehabilitating, preserving, furnishing and/or equipping other buildings and facilities near the courthouse.

(d) Four Hundred Twenty-five Thousand Dollars ($425,000.00) shall be allocated and disbursed as grant funds to the Oxford-Lafayette County Heritage Foundation to pay the costs of capital improvements, repairing, renovating, restoring, rehabilitating, preserving, furnishing, equipping and/or acquiring the L.Q.C. Lamar Home in Oxford, Mississippi.

(e) Four Hundred Seventy-five Thousand Dollars ($475,000.00) shall be allocated and disbursed as grant funds to the City of Columbus, Mississippi, to assist in paying the costs associated with repair, renovation and restoration of the Columbus City Hall building and related facilities.

(f) One Million Dollars ($1,000,000.00) shall be allocated and disbursed as grant funds to the Town of Wesson, Mississippi, to pay the costs of restoration and renovation of the Old Wesson School.

(g) Two Hundred Fifty Thousand Dollars ($250,000.00) shall be allocated and disbursed as grant funds to the Town of Shubuta, Mississippi, to assist in paying the costs associated with construction, reconstruction, refurbishing, repair, renovation and restoration of the Shubuta Town Hall building and related facilities.

(h) Two Hundred Fifty Thousand Dollars ($250,000.00) shall be allocated and disbursed as grant funds to assist in paying the costs associated with repair, renovation and restoration of Okolona College in Okolona, Mississippi.

(i) Monies in the Mississippi Community Heritage Preservation Grant Fund which are derived from proceeds of state general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Department of Archives and History in providing assistance directly related to a project described in paragraph (a) of this subsection for which funding is provided under this section. Reimbursement may be made only until such time as the project is completed. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the Mississippi Department of Archives and History. Reimbursement of reasonable actual and necessary costs for a project shall not exceed three percent (3%) of the proceeds of bonds issued for such project. Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects.

(3)(a) The Board of Trustees of the Department of Archives and History shall receive and consider proposals from county governments, municipal governments, school districts and nonprofit organizations that have obtained Section 501(c)(3) tax-exempt status from the United States Internal Revenue Service for projects associated with the preservation, restoration, rehabilitation, repair or interpretation of (i) historic courthouses, (ii) historic school buildings, and/or (iii) other historic properties identified by certified local governments. Proposals shall be submitted in accordance with the provisions of procedures, criteria and standards developed by the board. The board shall determine those projects to be funded and may require matching funds from any applicant seeking assistance under this section. This subsection shall not apply to projects described in subsection (2)(a)(ii), (2)(b), (2)(c), (2)(d), (2)(e), (2)(f), (2)(g) and (2)(h) of this section.

(b) The Board of Trustees of the Department of Archives and History shall receive and consider proposals from county governments for projects associated with historically appropriate restoration, repair and renovation of historically significant county courthouses. Proposals shall be submitted in accordance with the provisions of procedures, criteria and standards developed by the board. The board shall determine those projects to be funded and may require matching funds from any applicant seeking assistance under this section. This subsection shall not apply to projects described in subsection (2)(a)(i), (2)(b), (2)(c), (2)(d), (2)(e) and (2)(f) of this section.

(4) The Department of Archives and History shall publicize the Community Heritage Preservation Grant Program described in this section on a statewide basis, including the publication of the criteria and standards used by the department in selecting projects for funding. The selection of a project for funding under the provisions of this section shall be made solely upon the deliberate consideration of each proposed project on its merits. The board shall make every effort to award the grants in a manner that will fairly distribute the funds in regard to the geography and cultural diversity of the state. This subsection shall not apply to projects described in subsection (2)(b), (2)(c), (2)(d), (2)(e) and (2)(f) of this section.

(5) With regard to any project awarded funding under this section, any consultant, planner, architect, engineer, exhibit contracting firm, historic preservation specialist or other professional hired by a grant recipient to work on any such project shall be approved by the board before their employment by the grant recipient.

(6) Plans and specifications for all projects initiated under the provisions of this section shall be approved by the board before the awarding of any contracts. The plans and specifications for any work involving "Mississippi Landmark" properties shall be developed in accordance with "The Secretary of the Interior's Standards for the Treatment of Historic Properties."

SOURCES: Laws, 2001, ch. 541, § 21; Laws, 2002, ch. 543, § 17; Laws, 2003, ch. 509, § 17; Laws, 2004, 3rd Ex Sess, ch. 1, § 207; Laws, 2006, ch. 538, § 16; Laws, 2007, ch. 607, § 8; Laws, 2009, ch. 557, § 6; Laws, 2010, ch. 533, § 50; Laws, 2011, ch. 425, § 1; Laws, 2011, ch. 480, § 31; Laws, 2013, ch. 569, § 5; Laws, 2014, ch. 530, § 7, eff from and after July 1, 2014.

Joint Legislative Committee Note — Section 1 of ch. 425, Laws of 2011, effective from and after July 1, 2011 (approved March 16, 2011), amended this section. Section 31 of ch. 480, Laws of 2011, effective from and after passage (approved April 6, 2011), also amended this section. As set out above, this section reflects the language of Section 31 of ch. 480, Laws of 2011, which contains language that specifically provides that it supersedes § 39-5-145 as amended by Laws of 2011, ch. 425.

Editor's Note — Sections 22 through 36 of Laws of 2001, ch. 541 provided for the issuance of general obligation bonds to provide funding for the Mississippi Community Heritage Preservation Grant Fund.

Laws of 2004, 3rd Ex Sess, ch. 1, § 228 provides:

"SECTION 228. Except as otherwise provided in this act, any entity using funds authorized and made available under Chapter 1, 2004 Third Extraordinary Session, is authorized, in its discretion, to set aside not more than twenty percent (20%) of such funds for expenditure with small business concerns owned and controlled by socially and economically disadvantaged individuals. The term 'socially and economically disadvantaged individuals' shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS, Section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section."

Laws of 2014, ch. 530, § 47, provides:

"SECTION 47. Section 46 of this act shall take effect and be in force from and after January 1, 2014, Section 39 of this act shall take effect and be in force from and after its passage, and the remainder of this act shall take effect and be in force from and after July 1, 2014."

Amendment Notes — The 2013 amendment substituted "Thirty Million Six Hundred Thousand Dollars ($30,600,000.00)" for "Twenty five Million Six Hundred Thousand Dollars ($25,600,000.00)" at the beginning of (2)(a)(i); deleted (2)(g) which allocated funds to the National West Point Alumni Association and redesignated former (h) as (g); and substituted "(2)(e) and (2)(f)" for "(2)(e), (2)(f), and (2)(g)" near the end of (3)(a), (3)(b) and (4).

The 2014 amendment substituted "Thirty-two Million Seven Hundred Thousand Dollars ($32,700,000.00)" for "Thirty Million Six Hundred Thousand Dollars ($30,600,000.00)" at the beginning of (2)(a)(i); substituted "Four Hundred Seventy-five Thousand Dollars ($475,000.00)" for "Seventy-five Thousand Dollars ($75,000.00)" at the beginning of (2)(e); added (2)(g) and (2)(h) and redesignated former (2)(g) as present (2)(i); and inserted "(2)(g) and (2)(h)" near the end of (3)(a) and made a related stylistic change.

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

Board of Trustees of the Department of Archives and History generally, see § 39-5-3.

Federal Aspects — Nonprofit organizations qualifying as tax exempt under § 501(c)(3) of the Internal Revenue Code, see 26 USCS § 501(c)(3).

ATTORNEY GENERAL OPINIONS

Whether a specific parcel of property is owned by a nonprofit corporation and whether it meets the criteria for the Community Heritage Preservation Grant Program are fact questions to be determined by the Department of Archives and History. Hilliard, Sept. 27, 2002, A.G. Op. #02-0517.

HISTORIC SHIPWRECK PROJECT

SEC.
39-5-151. Recovery and restoration of historic shipwreck at state site 22Ja542; historic shipwreck project fund.

§ 39-5-151. Recovery and restoration of historic shipwreck at state site 22Ja542; historic shipwreck project fund.

(1) The Mississippi Department of Archives and History is authorized to proceed with implementing the recovery and restoration of the historic shipwreck site near the eastern shore of the Bay of Biloxi designated as state site 22Ja542. The department shall implement a program to publicize the historic nature of the site and to involve the private sector to the greatest extent possible.

(2) The Department of Marine Resources, the University of Southern Mississippi, the Mississippi Development Authority and any other agency upon request by the Department of Archives and History shall to the greatest extent practical, assist the Department of Archives in the recovery and restoration project.

(3)(a) There is created in the State Treasury a fund designated for the historic shipwreck project. The fund may receive monies from any available private or public source.

(b) Expenditures may be made from the fund upon requisition by the executive director of the department of Archives and History.

(c) The fund shall be treated as a special trust fund. Interest earned on the principal shall be credited by the Treasurer to the fund.

(4) The executive director shall file an annual report detailing the receipts and expenditures with the chairpersons of the House and Senate Appropriations Committees.

SOURCES: Laws, 2010, ch. 509, § 8, eff from and after passage (approved Apr. 13, 2010.)

CHAPTER 7

Antiquities

Sec.
39-7-1. Short title.
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39-7-31. Entry upon land of another to deface, remove or destroy archeological relics or sites.
39-7-33. Disfigurement, removal, destruction, etc., of historical structure or artifact.
39-7-35. Penalties for violations of chapter; finder's fee for arrest and conviction of violator.
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39-7-41. Certain archaeological records exempt from requirement of public access.

§ 39-7-1. Short title.

This chapter shall be known, and may be cited, as the "Antiquities Law of Mississippi."

SOURCES: Codes, 1942, § 6192-101; Laws, 1970, ch. 267, § 1, eff from and after passage (approved March 2, 1970).

Cross References — Provision excepting Mississippi Landmarks, as defined in this chapter, from certain restrictions on the expenditure of public funds for capital improvements on property upon which a conservation easement has been granted, see § 89-19-11.

ATTORNEY GENERAL OPINIONS

In view of the fact that surplus property owned by a city was a protected Mississippi landmark, the city could place covenants on the property restricting its use to the uses set out in the notice of sale and such covenants could continue forever; further, the city could take into consideration in awarding the bid for the sale of the property the proposed use of the property, the scope of the proposed rehabilitation of the structure, and the time period for beginning and completing rehabilitation efforts as well as the monetary bid offered. Thomas, August 28, 1998, A.G. Op. #98-0517.

RESEARCH REFERENCES

ALR. Validity, construction, and application of Antiquities Act of 1906, 16 U.S.C.A. § 431 et seq. 11 A.L.R. Fed. 2d 623.

§ 39-7-3. Declaration of public policy.

It is hereby declared to be the public policy and in the public interest of the State of Mississippi to locate, protect, and preserve all sites, objects, buildings, shipwrecks, and locations of historical, archaeological, or architectural significance, including, but not limited to historically or architecturally significant buildings, structures relating to significant engineering accomplishments, prehistoric and historical American Indian or aboriginal campsites, dwellings, and habitation sites, archaeological sites of every character, treasure imbedded in the earth, sunken or abandoned ships and wrecks of the sea or any part or the contents thereof, maps, records, documents, books, artifacts, and implements of culture in any way related to the inhabitants, prehistory, history, natural history, government, or culture in, on or under any of the lands, tidelands, submerged lands, and bed of the sea within the jurisdiction of the State of Mississippi.

SOURCES: Codes, 1942, § 6192-102; Laws, 1970, ch. 267, § 2; Laws, 1983, ch. 458, § 1, eff from and after July 1, 1983.

Cross References — Required preparation and implementation of plan by marine resources council that would further public policy expressed by this section, see § 57-15-6.

§ 39-7-4. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Historical significance" means that quality or qualities associated with events that have made a significant contribution to the broad patterns of state, local or national history, or that quality or qualities associated with the lives of persons significant in local, state or national history.

(b) "Architectural significance" means the qualities which embody the distinctive characteristics of type, period or method of construction, or that represent the work of a master, or that possess high artistic value.

(c) "Archeological significance" means possessing the quality or qualities which have yielded, or may be likely to yield, information important in Mississippi prehistory or history.

(d) "Department" means the Mississippi Department of Archives and History.

(e) "Board" means the board of trustees of the Mississippi Department of Archives and History.

(f) "Agency" means any administrative division of the State of Mississippi, its counties, cities or political subdivisions thereof.

(g) "Restoration" means the returning of an object, building, structure or site to a prior condition or to an original historic appearance.

SOURCES: Laws, 1983, ch 458, § 2, eff from and after July 1, 1983.

Cross References — Mississippi Department of Archives and History generally, see § 39-5-1.

§ 39-7-5. Administration of chapter; inspection of record of proceedings.

The authority to administer the provisions of this chapter is vested in the board of trustees of the department of archives and history, hereinafter referred to as the board. A record of the board's proceedings under this chapter shall be kept, and shall be subject to inspection by any citizen of Mississippi desiring to make an examination in the presence of a member of the board or an authorized employee of the department of archives and history.

SOURCES: Codes, 1942, § 6192-103; Laws, 1970, ch. 267, § 3, eff from and after passage (approved March 2, 1970).

Cross References — Board of Trustees of the Department of Archives and History generally, see § 39-5-3.

Surface mining and reclamation of land, see §§ 53-7-1 et seq.

§ 39-7-7. General duties of board of trustees of department of archives and history.

The duties of the board shall be to determine the site of and to designate Mississippi landmarks; to remove from such designation certain of such sites as hereinafter provided; to contract or otherwise provide for the discovery and salvage operations herein covered; to consider the requests for and issue the permits hereinafter provided for; and to protect and preserve the archaeological, historical and architectural resources of the State of Mississippi. The board shall be the legal custodian of all items hereinafter described which have been recovered and retained by the State of Mississippi, and shall maintain an inventory of such items showing the description and depository thereof.

SOURCES: Codes, 1942, § 6192-104; Laws, 1970, ch. 267, § 4; Laws, 1983, ch. 458, § 3, eff from and after July 1, 1983.

Cross References — Board of Trustees of the Department of Archives and History generally, see § 39-5-3.

Lowest and best bid decision procedure for Mississippi landmarks, see § 31-7-13.

§ 39-7-9. Shipwrecks and buried treasure designated Mississippi landmarks and sole property of state.

All sunken or abandoned ships and wrecks of the sea, and any part or the contents thereof, and all treasure imbedded in the earth, located in, on or under the surface of lands belonging to the State of Mississippi, including its tidelands, submerged lands and the beds of its rivers and the sea within the jurisdiction of the State of Mississippi are hereby declared to be Mississippi landmarks and are the sole property of the State of Mississippi and may not be taken, altered, damaged, destroyed, salvaged or excavated without a contract or permit of the board.

SOURCES: Codes, 1942, § 6192-105; Laws, 1970, ch. 267, § 5; Laws, 1983, ch. 458, § 4, eff from and after July 1, 1983.

RESEARCH REFERENCES

ALR. Modern status of rules as to ownership of treasure trove as between finder and owner of property on which found. 61 A.L.R.4th 1180.

Validity, construction, and application of Abandoned Shipwreck Act of 1987 (43 U.S.C.S. §§ 2101 et seq.). 163 A.L.R. Fed. 421.

§ 39-7-11. Designation of sites, objects, etc., upon lands belonging to state or political subdivision as Mississippi landmarks; recording; alteration, excavation, etc., of sites.

(1) All other sites, objects, buildings, artifacts, implements, and locations of archaeological significance, including, but expressly not limited to, those pertaining to prehistoric and historical American Indian or aboriginal campsites, dwellings, and habitation sites, their artifacts and implements of culture, as well as archaeological sites of every character that are located in, on or under the surface of any lands belonging to the State of Mississippi or to any county, city, or political subdivision of the state, are hereby declared to be Mississippi landmarks and are the sole property of the State of Mississippi. Such sites may not be taken, altered, destroyed, salvaged or excavated without a permit from the board or in violation of the terms of such permit.

(2) All other sites, objects, buildings, artifacts, implements, structures and locations of historical or architectural significance located in or under the surface of any lands belonging to the State of Mississippi or to any county, city or political subdivision of the state may be declared to be Mississippi landmarks by majority vote of the board. Every Mississippi landmark shall be so designated based upon its significance within the historical or architectural patterns of a community, a county, the State of Mississippi, or the United States of America. Upon such action by the board, the designation of the Mississippi landmark shall be recorded in the deed records of the county in

which the landmark is located. All such designated sites or items located on public lands within the State of Mississippi may not be taken, altered, damaged, destroyed, salvaged, restored, renovated or excavated without a permit from, the board or in violation of the terms of such permit.

(3) All such sites or items located on private lands within the State of Mississippi that have been designated as Mississippi landmarks as hereinafter provided, may not be taken, altered, damaged, destroyed, salvaged, restored, renovated or excavated without a permit from the board or in violation of the terms of such permit. Such designation shall be reduced to recordable form sufficiently describing the site so that it may be located and shall be recorded in the deed records of the county in which the landmark is located.

SOURCES: Codes, 1942, § 6192-106; Laws, 1970, ch. 267, § 6; Laws, 1983, ch. 458, § 5, eff from and after July 1, 1983.

Cross References — Lowest and best bid decision procedure for Mississippi landmarks, see § 31-7-13.

ATTORNEY GENERAL OPINIONS

Constitutionally mandated sixteenth section trust overrides statutory duty of Department of Archives and History to preserve landmarks. Dortch, Oct. 8, 1992, A.G. Op. #92-0488.

§ 39-7-13. Designation of sites located upon private lands as Mississippi landmarks; recordation; marking.

Any site located upon private lands which is determined by majority vote of the board to be of sufficient archaeological, historical or architectural significance may be designated by the board as a Mississippi landmark. It is specifically provided, however, that no such site shall be so designated upon private land without the written consent of the landowner or landowners in recordable form sufficiently describing the site so that it may be located. Upon such designation the consent of the landowner shall be recorded in the deed records of the county in which the land is located. Any such site upon private land shall be marked by at least one (1) marker, approved by the board, bearing the words “Mississippi Landmark” for each five (5) acres of area.

SOURCES: Codes, 1942, § 6192-107; Laws, 1970, ch. 267, § 7; Laws, 1983, ch. 458, § 6, eff from and after July 1, 1983.

§ 39-7-15. Removal from designation.

Upon majority vote of the board any Mississippi landmark on public or private land may be determined to be of no further historical, archaeological, or architectural significance, or not of sufficient significance to warrant its further classification as such, and upon such determination it may be removed from such designation. In the case of sites located on private land that have theretofore been designated by instrument of record, the board is authorized to cause to be executed and recorded in the deed records of the county where such site is located an instrument setting out such determination and releasing the site from the provisions thereof.

SOURCES: Codes, 1942, § 6192-108; Laws, 1970, ch. 267, § 8; Laws, 1983, ch. 458, § 7, eff from and after July 1, 1983.

§ 39-7-17. Contracts for salvage; surveys; excavation.

The board shall be authorized to enter into contracts with other state agencies or institutions and with qualified private institutions, corporations, or individuals for the discovery and salvage of treasure imbedded in the earth, sunken or abandoned ships or wrecks of the sea, parts thereof and their contents. Such contracts are to be on forms approved by the attorney general. The contracts may provide for fair compensation to the salvager in terms of a percentage of the reasonable cash value of the objects recovered, or at the discretion of the board, of a fair share of the objects recovered. The amount constituting a fair share shall be determined by the board, taking into consideration the circumstances of each such operation. The reasonable cash value may be determined by contract provision providing for appraisal by qualified experts or by representatives of the contracting parties and their representative or representatives. Such contract shall provide for the termination of any right in the salvager or permittee thereunder upon the violation of any of the terms thereof. Superior title to all objects recovered shall be retained by the State of Mississippi unless and until it is released to the salvager or permittee by the board. No person, firm, or corporation may conduct such salvage or recovery operation herein described without first obtaining such contract. All such contracts shall specify, among other things, the location, nature of the activity, and the time period covered thereby, and when executed are to be recorded by the person, firm, or corporation obtaining such contract, in the office of the chancery clerk in the county or counties where such operations are to be conducted, prior to the commencement of such operation.

The board shall be authorized to conduct surveys to identify Mississippi landmarks on or under all lands and waters belonging to the State of Mississippi, or any county, city or political subdivisions of the state and to excavate or study all Mississippi landmarks. The board shall be further authorized to identify and excavate historic, architectural, or archaeological sites on private property, however, it is specifically provided that no such survey may be undertaken on private land without consent of the landowner and that no excavation may be undertaken on private land without the landowner's written consent.

SOURCES: Codes, 1942, § 6192-109; Laws, 1970, ch. 267, § 9; Laws, 1983, ch. 458, § 8, eff from and after July 1, 1983.

Cross References — Board of Trustees of the Department of Archives and History generally, see § 39-5-3.

Permits for salvage or studies, see § 39-7-19.
Supervision of salvage operations and custody of antiquities, see § 39-7-21.

ATTORNEY GENERAL OPINIONS

Legislation does not separate historical from nonhistorical ships or wrecks, and legislation was made sufficiently broad to cover all sunken or abandoned ships and wrecks of sea; legislature did not make it duty of department of Archives and History to clean out rivers of State of Mississippi and it is entirely within discretion of board of trustees of department whether or not to permit salvage or to contract for salvage of all such wrecks and ships. Hilliard, Jan. 24, 1990, A.G. Op. #90-0016.

RESEARCH REFERENCES

ALR. Modern status of rules as to ownership of treasure trove as between finder and owner of property on which found. 61 A.L.R.4th 1180.

§ 39-7-19. Permits for excavation, salvage, studies, etc., at Mississippi landmarks.

The board shall be authorized to issue permits to other state agencies or institutions and to qualified private institutions, companies, or individuals for the taking, salvaging, excavating, restoring, or the conducting of scientific or educational studies at, in or on Mississippi landmarks as in the opinion of the board would be in the best interest of the State of Mississippi. Such permits may provide for the retaining by the permittee of a portion of any recovery, as set out for contracting parties under Section 39-7-17. Such permit shall provide for the termination of any rights in the permittee thereunder upon the violation of any of the terms thereof and shall be drafted in compliance with forms approved by the attorney general. All such permits shall specify, among other things, the location, nature of the activity, and time period covered thereby. No person, firm, or corporation shall conduct any such operations on any Mississippi landmarks without first obtaining and having in his or its possession such permit at the site of such operation, nor shall such operations be conducted in violation of the provisions of such permit.

SOURCES: Codes, 1942, § 6192-110; Laws, 1970, ch. 267, § 10; Laws, 1983, ch. 458, § 9, eff from and after July 1, 1983.

Cross References — Board of Trustees of the Department of Archives and History generally, see § 39-5-3.
Supervision of salvage operations and custody of antiquities, see § 39-7-21.

§ 39-7-21. Supervision of salvage or recovery operations; custody of antiquities; promulgation of rules and regulations.

All salvage or recovery operations described under Section 39-7-17, and all operations conducted under permits set out in Section 39-7-19, must be carried out under the general supervision of the board, in accordance with reasonable rules and regulations adopted by the board, and in such manner that the maximum amount of historic, scientific, archeological, and educational information may be recovered and preserved in addition to the physical recovery of items. The board shall be the legal custodian of all antiquities recovered, and is specifically authorized and empowered to promulgate such rules and regulations and to require such contract or permit conditions as to reasonably effect the purposes of this chapter.

SOURCES: Codes, 1942, § 6192-111; Laws, 1970, ch. 267, § 11, eff from and after passage (approved March 2, 1970).

Cross References — Board of Trustees of the Department of Archives and History generally, see § 39-5-3.

§ 39-7-22. Public construction or improvement affecting potential Mississippi landmarks.

(1) In the early stages of planning and always prior to the letting of bids for public construction, public improvement of any nature, or the transfer of public property to private ownership, state agencies, local governments and all their political subdivisions shall notify the board of the planned action on a form supplied by the board. The board may survey the affected area, property, structure, or building, to determine if potential Mississippi landmarks will be affected, or if significant sites, buildings, or structures on nonpublic lands will be affected.

(2) If the department determines that significant historic, architectural, or archaeological sites, buildings, structures, locations, or remains will be adversely affected by the public construction or improvement, the proposed public construction or improvement may not be commenced until the department has issued the permit herein required, and has performed all necessary investigations, recording and/or salvage of the site, location or remains. All investigation, recording and salvage work shall be performed as expeditiously as possible so that no public construction project will be unduly impaired, impeded or delayed.

(3) If in the course of performing public construction or improvements, historic, prehistoric or archaeological sites, locations, remains or objects are discovered, the department shall be notified and its concurrence shall be requested in continuing the construction or improvement. Upon receipt of this notice, the department shall survey the area to confirm whether the area contains historic, prehistoric, or archaeological data which should be preserved in the public interest. The survey shall be conducted as expeditiously as possible. If, as a result of the survey, it is determined that (a) this data exists in the area, (b) the data has exceptional historic, prehistoric or archaeological significance and should be collected and preserved in the public interest, and (c) it is feasible to collect and preserve the data, the department shall perform the necessary work to collect and preserve the data. This work shall be performed as expeditiously as possible. When it is not feasible to collect the data, the agency shall make all reasonable attempts to avoid the site before

proceeding. If in the board's opinion the site possesses unusual significance, and is unique to such a degree that the landmark is, or is likely to be, the sole representative of a type or period, the board may prohibit further construction which would destroy or irreparably harm the landmark.

SOURCES: Laws, 1983, ch 458, § 10, eff from and after July 1, 1983.

Cross References — Department of Archives and History generally, see §§ 39-5-1 et seq.

Provision excepting Mississippi Landmarks, as defined in this chapter, from certain restrictions on the expenditure of public funds for capital improvements on property upon which a conservation easement has been granted, see § 89-19-11.

RESEARCH REFERENCES

ALR. Application and construction of § 106 of the National Historic Preservation Act 1966 (16 USCS § 470f), dealing with federally sponsored projects which affect historic properties. 68 A.L.R. Fed. 578.

§ 39-7-23. Expenditures for acquisition of items; gifts and bequests; contracts for temporary possession of items by others.

The board is hereby authorized to expend such sums, from any appropriations hereafter made for such purposes, as it may deem advisable, to purchase from the salvager or permittee such salvager's or permittee's share, or portion thereof, of items recovered which in the opinion of the board should remain the property of the State of Mississippi. The board is authorized and empowered to accept gifts, grants, devises, and bequests of money, securities, or property to be used in the purchase of such items from the salvager or permittee. Further, in this respect, the board may enter into contracts or agreements with such persons, firms, corporations, or institutions, as it might choose, whereby such persons, firms, corporations, or institutions, for the privilege of retaining temporary possession of such items, may advance to the board the money necessary to procure from the salvager or permittee such items as the board might determine should remain the property of the State of Mississippi, upon the condition that at any time the board may choose to repay to such person, firm, corporation, or institution such sum so advanced, without interest or additional charge of any kind, it may do so and may recover possession of such items. During the time these items are in the possession of the person, firm, corporation, or institution advancing the money for the purchase thereof, they shall be available for viewing by the general public without charge or at no more than a nominal admission fee, and such items may not be removed from the State of Mississippi for appraisal, exhibition, or restorative purposes, except upon written authorization of the board.

SOURCES: Codes, 1942, § 6192-112; Laws, 1970, ch. 267, § 12, eff from and after passage (approved March 2, 1970).

Cross References — Board of Trustees of the Department of Archives and History generally, see § 39-5-3.

§ 39-7-25. Restoration of antiquities for private parties.

The restoration of antiquities for private parties is authorized and shall be under the rules and regulations promulgated by the board, and all costs incurred in such restoration, both real and administrative, shall be paid by the private party.

SOURCES: Codes, 1942, § 6192-113; Laws, 1970, ch. 267, § 13, eff from and after passage (approved March 2, 1970).

Cross References — Board of Trustees of the Department of Archives and History generally, see § 39-5-3.

§ 39-7-27. Reproduction, forging, etc., of antiquity with intent to deceive.

No person shall intentionally reproduce, replicate, retouch, rework, or forge any archeological or other object which derives value from its antiquity, with intent to represent the same to be original or genuine and with intent to deceive or offer any such object for sale or exchange.

SOURCES: Codes, 1942, § 6192-114; Laws, 1970, ch. 267, § 14, eff from and after passage (approved March 2, 1970).

§ 39-7-29. Defacing of American Indian or aboriginal markings or carvings.

No person shall intentionally and knowingly deface any American Indian or aboriginal paintings, hieroglyphics, or other marks or carvings on rock or elsewhere which pertain to early American Indian or aboriginal habitation of the country.

SOURCES: Codes, 1942, § 6192-115; Laws, 1970, ch. 267, § 15, eff from and after passage (approved March 2, 1970).

RESEARCH REFERENCES

Law Reviews. Historic Preservation of the Zoning Power: A Mississippi Perspective. 50 Miss. L. J. 533, September, 1979.

§ 39-7-31. Entry upon land of another to deface, remove or destroy archeological relics or sites.

No person, not being the owner thereof, and without the written consent of the owner, proprietor, lessee, or person in charge thereof, shall enter or attempt to enter upon the lands of another and intentionally injure, disfigure, remove, excavate, damage, take, dig into, or destroy any historical structure, monument, marker, medallion, or artifact, or any prehistoric or historic archaeological site, American Indian or aboriginal remains located in, on or under any private lands within the State of Mississippi. No person without a permit from the board, and without written permission of the landowner, shall intentionally injure, disfigure, remove, excavate, damage, take, dig into, or destroy any prehistoric or historic American Indian or aboriginal burial.

SOURCES: Codes, 1942, § 6192-116; Laws, 1970, ch. 267, § 16; Laws, 1983, ch. 458, § 11, eff from and after July 1, 1983.

Cross References — Board of Trustees of the Department of Archives and History generally, see § 39-5-3.

§ 39-7-33. Disfigurement, removal, destruction, etc., of historical structure or artifact.

It shall be unlawful for any person, not being the owner thereof, and without lawful authority, to wilfully injure, disfigure, remove or destroy any historical structure, monument, marker, medallion, or artifact.

SOURCES: Codes, 1942, § 6192-120; Laws, 1970, ch. 267, § 20, eff from and after passage (approved March 2, 1970).

RESEARCH REFERENCES

Law Reviews. Historic Preservation of the Zoning Power: A Mississippi Perspective. 50 Miss. L. J. 533, September, 1979.

§ 39-7-35. Penalties for violations of chapter; finder's fee for arrest and conviction of violator.

(1) Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars ($500.00) and not more than five thousand dollars ($5,000.00), or by confinement in jail for not more than thirty (30) days, or by both such fine and confinement. Each day of continued violation of any provision of this chapter shall constitute a distinct and separate offense for which the offender may be punished.

(2) The board at its discretion may grant a "finder's fee," not to exceed five hundred dollars ($500.00), for the arrest and conviction of any person in violation of this chapter.

SOURCES: Codes, 1942, § 6192-117; Laws, 1970, ch. 267, § 17; Laws, 1983, ch. 458, § 12, eff from and after July 1, 1983.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 39-7-37. Civil action to enjoin violations or threatened violations of chapter; venue.

In addition to, and without limiting the other powers of the attorney general of the state of Mississippi and without altering or waiving any criminal penalty provision of this chapter, the attorney general shall have the power to bring an action in the name of the State of Mississippi in any court of competent jurisdiction to enjoin violations or threatened violations of this chapter, and for the return of items taken in violations of the provisions hereof, and for the restoration of alterations made in violation of the provisions hereof. The venue of such actions shall lie in the county in which the activity sought to be enjoined is alleged to be taking place, or in the county from which the items were taken. Any citizen in the State of Mississippi shall have the power to bring an action in any court of competent jurisdiction to enjoin violations or threatened violations of this chapter, and for the return of items taken in violation of the provisions hereof. The venue of such actions shall lie in the county in which the activity sought to be enjoined is alleged to be taking place, or in the county from which the items were taken.

SOURCES: Codes, 1942, § 6192-118; Laws, 1970, ch. 267, § 18; Laws, 1983, ch. 458, § 13, eff from and after July 1, 1983.

§ 39-7-39. Other agencies and governments to assist in enforcement of chapter.

The chief administrative officers of all state agencies and of all state and local governments are authorized and directed to cooperate with and assist the board and the attorney general in carrying out the intent of this chapter. All law enforcement agencies and officers, state and local, are authorized and directed to assist in enforcing and in carrying out the intent of this chapter.

SOURCES: Codes, 1942, § 6192-119; Laws, 1970, ch. 267, § 19; Laws, 1983, ch. 458, § 14, eff from and after July 1, 1983.

§ 39-7-41. Certain archaeological records exempt from requirement of public access.

Records in the possession of the Mississippi Department of Archives and History or any other public body as defined in paragraph (a) of Section 25-61-3 which contain information about the location of any specific archaeological site and which in the opinion of any such agency possessing such records would, upon the disclosure thereof, create a substantial risk of damage or destruction to the historical value of such archaeological site or create a substantial risk of damage or destruction to private property rights, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

SOURCES: Laws, 1983, ch. 424, § 17, eff from and after July 1, 1983.

Editor's Note — "The Mississippi Public Records Act of 1983", referred to in this section, is Laws, 1983, ch. 424, §§ 1-9, which appears as §§ 25-61-1 et seq.

Cross References — Department of archives and history, generally, see §§ 39-5-1 et seq.

CHAPTER 9

Trusts to Promote Arts and Sciences

Sec.	
39-9-1.	Creation of trusts; purposes.
39-9-3.	Designations by grantor of trust.
39-9-5.	Founding of institution for profit prohibited; payment of dividends; compensation of trustees; charging of fees by institutions.
39-9-7.	Exemption from taxation of institutions.
39-9-9.	Receipt of gifts and bequests by institutions.
39-9-11.	Powers and duties of trustees.
39-9-13.	Execution, acknowledgement and recording of grants.

§ 39-9-1. Creation of trusts; purposes.

Any person desiring in his lifetime, to promote the public welfare by founding, endowing and having maintained a public library, museum, art gallery or educational institutions within this state, to be operated without profit, may to that end and for such purposes by grant, in writing, convey to a trustee, or any number of trustees, named in such grant, and to their successors, forever, such real property in this state as shall be necessary to the operation of such library, museum, art gallery or educational institutions, and any personal property wherever situate.

SOURCES: Codes, 1930, § 3636; 1942, § 6193; Laws, 1922, ch. 193.

Cross References — Donations for support and maintenance of public museums, see § 19-5-93.

Power of counties to establish libraries, see § 39-3-1.

Objects and purposes of the department of archives and history, see §§ 39-5-1 et seq.

ATTORNEY GENERAL OPINIONS

Private nonprofit museums are allowable objects of county donations. Trapp, March 6, 1998, A.G. Op. #98-0123.

RESEARCH REFERENCES

ALR. Validity, as for a charitable purpose, of trust for dissemination or preservation of material of historical or other educational interest or value. 12 A.L.R.2d 849.

Validity, as for a charitable purpose, of trust for publication or distribution of particular books or writings. 34 A.L.R.4th 419.

§ 39-9-3. Designations by grantor of trust.

The person making such grant may therein designate:

(1) The nature, objects and purposes of the institution to be founded, endowed and maintained;

(2) The name by which it shall be known;

(3) The powers and duties of the trustee or trustees and the manner in which he or they shall account, and to whom, if accounting be required; however, such powers and duties shall not be held to be exclusive of other powers which may be necessary to enable such trustee or trustees to carry out the object of such grant;

(4) The mode and manner, and by whom, the successors to the trustee or trustees named in the grant are to be appointed, in perpetuity; and

(5) Such rules and regulations for the management of the property conveyed as the grantor may elect to prescribe; however, such rules shall be deemed advisory only, and shall not preclude such trustee or trustees from making such change as new conditions may from time to time require.

SOURCES: Codes, 1930, § 3637; 1942, § 6194; Laws, 1922, ch. 193.

§ 39-9-5. Founding of institution for profit prohibited; payment of dividends; compensation of trustees; charging of fees by institutions.

No institution for pecuniary profit shall be founded under this chapter; nor shall any dividends be declared or paid by any institution founded under this chapter; and no trustee, officer, member or employee of any institution founded hereunder shall receive, or be entitled to receive, any pecuniary profit from the operations thereof except reasonable compensation for services in effecting or furthering any one or more of the objects or purposes of the institution. In case of a public library any requirements for the payment of fees for various privileges shall not divest such library of its public character when such requirements are usual or customary in case of public libraries throughout the state or the United States. In the case of educational institutions, requirements as to the payment of matriculation fees, laboratory fees, library fees, fees of like kind or nature, board and lodging of students, and any of the requirements customary or usually insisted upon in the public educational institutions of this state shall not divest such institutions of their public character.

SOURCES: Codes, 1930, § 3638; 1942, § 6195; Laws, 1922, ch. 193.

§ 39-9-7. Exemption from taxation of institutions.

Every institution founded under this chapter, and the property of such institution, including real property, money, stock, bonds, notes, certificates of indebtedness, other evidences of indebtedness, and all other personal property, excepting motor vehicles, so far as devoted exclusively to carrying out objects and purposes of such institution shall be exempt from all state, county and municipal taxes. However, such institution shall own only such real property as shall be necessary to the fulfillment of the objects and purposes of such institution.

SOURCES: Codes, 1930, § 3639; 1942, § 6196; Laws, 1922, ch. 193; Laws, 1978, ch. 514, § 6, eff from and after July 1, 1978.

Cross References — Exemptions from ad valorem tax on automobiles, see § 27-51-41.

§ 39-9-9. Receipt of gifts and bequests by institutions.

Every institution founded under this chapter shall be competent to receive by purchase or gift further property, provided the aggregate of all real property held by such institution shall not exceed the amount necessary to the fulfillment of the objects and purposes of such institution. Such institution shall be competent to receive by bequest further property provided such bequest is not in violation of sections two hundred and sixty-nine, and two hundred and seventy of the constitution of Mississippi. The property so received shall be devoted exclusively to the purposes of such institution.

SOURCES: Codes, 1930, § 3640; 1942, § 6197; Laws, 1922, ch. 193.

Cross References — Donations by county board of supervisors for support and maintenance of local public museums, see § 19-5-93.

ATTORNEY GENERAL OPINIONS

Private nonprofit museums are allowable objects of county donations. Trapp, March 6, 1998, A.G. Op. #98-0123.

§ 39-9-11. Powers and duties of trustees.

The trustee or trustees named in any grant made and their successors, may in the name of the institution, as designated in such grant, sue and defend, in relation to the trust property and in relation to all matters affecting the institution endowed and established by such grant.

SOURCES: Codes, 1930, § 3641; 1942, § 6198; Laws, 1922, ch. 193.

§ 39-9-13. Execution, acknowledgement and recording of grants.

Any grant made under the provisions of this chapter may be executed, acknowledged and recorded in the same manner as is now provided by law for the execution, acknowledging, and recording of grants of real property.

SOURCES: Codes, 1930, § 3642; 1942, § 6199; Laws, 1922, ch. 193.

CHAPTER 11

Mississippi Arts Commission

Sec.	
39-11-1.	Creation; composition; qualifications and appointment of members.
39-11-3.	Terms of office and compensation of members; officers.
39-11-5.	Executive director; staff; advisory panels.
39-11-7.	Duties and objectives of commission.
39-11-9.	General powers of commission; Mississippi Fund for the Arts.
39-11-11.	Receipt and disbursement of federal funds.
39-11-13.	Building Fund for the Arts [Paragraph (2)(b) repealed effective July 1, 2018].

§ 39-11-1. Creation; composition; qualifications and appointment of members.

There is hereby created and established a state commission to be known as the Mississippi Arts Commission, to consist of fifteen members broadly representative of all fields of the performing, visual, literary arts, and the business community, and who are to be appointed by the governor from among citizens of the state who have demonstrated a vital interest in the performing, visual, or literary arts. These members shall also be representative of the different geographical areas of the state.

SOURCES: Codes, 1942, § 6199-21; Laws, 1968, ch. 498, § 1, eff from and after passage (approved June 24, 1968).

§ 39-11-3. Terms of office and compensation of members; officers.

Of the members initially appointed to the Mississippi Arts Commission, three shall be appointed for terms of one year, three for terms of two years, three for terms of three years, three for terms of four years and three for terms of five years. Thereafter, terms shall be for five years. The members heretofore appointed to the commission under Executive Order No. 12 are to remain contingent members of the Mississippi Arts Commission until their successors are appointed under this chapter. No member of the commission who serves a full five-year term shall be eligible for reappointment during a one-year period following the expiration of his term. All vacancies shall be filled for the balance of the unexpired term in the same manner as original appointments. The members of the commission shall not receive any compensation for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties as members of the commission. The commission will annually elect its chairman and other officers.

SOURCES: Codes, 1942, § 6199-22; Laws, 1968, ch. 498, § 2, eff from and after passage (approved June 24, 1968).

§ 39-11-5. Executive director; staff; advisory panels.

The chairman shall employ, with the approval of the commission, an executive director as administrative officer. The executive director shall employ other officers, experts and employees as may be needed and shall fix their compensation within the amounts made available for such purposes. Employment of staff members is subject to the approval of the commission. The commission may also, at its discretion, form advisory panels from qualified persons within the state to obtain their advice and counsel on matters pertaining to the arts. Members of these panels shall serve at the will and pleasure of the commission and will receive no compensation.

SOURCES: Codes, 1942, § 6199-23; Laws, 1968, ch. 498, § 3, eff from and after passage (approved June 24, 1968).

§ 39-11-7. Duties and objectives of commission.

The duties and objectives of the commission shall be:

(1) To stimulate and encourage throughout the state the study and presentation of the performing, visual, and literary arts and public interest and participation therein;

(2) To encourage participation in, appreciation of, and education in the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) To take such steps as may be necessary and appropriate, to encourage public interest in the cultural heritage of Mississippi, to expand the state's cultural resources, and to promote the use of art in the state government's activities and facilities; and

(4) To encourage excellence and assist freedom of artistic expression essential for the well-being of the arts.

SOURCES: Codes, 1942, § 6199-24; Laws, 1968, ch. 498, § 4, eff from and after passage (approved June 24, 1968).

RESEARCH REFERENCES

ALR. Validity, construction, and application of Visual Artists Rights Act (17 USCS §§ 101 et seq.). 138 A.L.R. Fed. 239.

§ 39-11-9. General powers of commission; Mississippi Fund for the Arts.

(1) The Mississippi Arts Commission is authorized and empowered to hold public hearings, to enter into contracts within the limit of funds available therefor, with individuals, organizations and institutions for services furthering the objectives of the commission's programs; to enter into contracts, within the limit of funds available therefor, with local and regional associations for cooperative endeavors furthering the objectives of the commission's programs; to accept gifts, contributions and bequests of funds from individuals, founda-

tions, corporations and other organizations or institutions for the purpose of furthering the objectives of the commission's programs; to make and sign any agreements and to do and perform any acts that may be necessary to carry out the purposes of this chapter. The commission may request and shall receive from any department, division, board, bureau, commission or agency of the state such assistance and data as will enable it properly to carry out its powers and duties hereunder.

(2) A special fund to be designated as the Mississippi Fund for the Arts is hereby created in the State Treasury. All funds deposited in this fund shall be used exclusively for the objectives of the commission as herein provided. Donations, bequests and grants deposited into the Mississippi Fund for the Arts may be disbursed by the Mississippi Arts Commission in accordance with the terms of the bequest or grant and in compliance with the purposes and policies of the Mississippi Arts Commission. Any disbursements made from the fund shall be authorized by both the chairman and the executive director of the commission and shall be supported by official actions and votes spread upon the minutes of the commission at an open public meeting. Any unexpended balance in the fund at the end of the fiscal year shall not lapse into the State General Fund and may be expended by the commissioner in subsequent fiscal years. Any interest earned on the fund may remain in the fund for disbursement by the commission in compliance with its purposes and policies. All transactions of the fund shall be reported annually to appropriate state agencies and subject to audit by the State Auditor and by auditors of donors. The Mississippi Fund for the Arts shall not be used for grants from federal agencies, including, but not limited to, the National Endowment for the Arts.

SOURCES: Codes, 1942, § 6199-25; Laws, 1968, ch. 498, § 5; Laws, 1994, ch. 383, § 1; Laws, 2000, ch. 410, § 1, eff from and after passage (approved Apr. 17, 2000.)

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

RESEARCH REFERENCES

ALR. Validity, construction, and application of Visual Artists Rights Act (17 USCS §§ 101 et seq.). 138 A.L.R. Fed. 239.

§ 39-11-11. Receipt and disbursement of federal funds.

The commission is the official agency of the state to receive and disburse appropriate funds made available by the federal government for programs related to the performing, visual, and literary arts.

SOURCES: Codes, 1942, § 6199-26; Laws, 1968, ch. 498, § 6, eff from and after passage (approved June 24, 1968).

§ 39-11-13. Building Fund for the Arts [Paragraph (2)(b) repealed effective July 1, 2018].

(1)(a) A special fund, to be designated as the "Building Fund for the Arts," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. The fund shall consist of any money designated for deposit therein from any source, including, but not limited to, any state general obligation bonds issued for the purposes described in this section. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and investment earnings on amounts in the fund shall be deposited into such fund.

(b) Money deposited into the fund shall be disbursed, in the discretion of the Mississippi Arts Commission, to provide grants to nonprofit organizations that are qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code and units of local government to pay the costs of:

(i) Repair, upgrading, expansion, renovation or enhancement of existing buildings and facilities for the presentation, teaching or exhibition of the arts in any and all of its forms and furniture, equipment and/or technology for such buildings or facilities;

(ii) Construction of new buildings and facilities for the presentation, teaching or exhibition of the arts in any and all of its forms and furniture, equipment and/or technology for such buildings or facilities; or

(iii) The development, construction, equipping and furnishing of an entertainment and film center and museum and completion of a sound stage project.

(c) The entity to which such grants are made shall provide matching funds from local, federal or private sources equal to forty percent (40%) of the proposed project cost in order to be eligible for a grant under this section.

(d) The maximum aggregate amount of monies in the special fund that may be used to provide grant funds to an entity or combination of entities under paragraph (b)(iii) of this subsection shall not exceed One Million Dollars ($1,000,000.00), and no monies in the special fund may be used to provide grant funds under paragraph (b)(iii) of this subsection after July 1, 2003. The maximum aggregate amount of grant funds that may be provided to an entity or combination of entities under paragraph (b)(iii) of this subsection during a fiscal year shall not exceed Five Hundred Thousand Dollars ($500,000.00).

(2)(a) Amounts deposited into such special fund shall be disbursed to pay the costs of projects described in subsection (1) of this section. If any monies in the special fund are derived from proceeds of bonds issued under Sections 3 through 18 of Chapter 541, Laws of 2001, as amended by Chapter 540, Laws of 2002, as amended by Chapter 519, Laws of 2003, as amended by Chapter 1, Laws of 2004 Third Extraordinary Session, as amended by

Chapter 538, Laws of 2006, as amended by Section 1 of Chapter 607, Laws of 2007, and are not used within four (4) years after the date such bond proceeds are deposited into the special fund, then the Mississippi Arts Commission shall provide an accounting of such unused monies to the State Bond Commission.

(b) Monies in the special fund which are derived from proceeds of bonds issued after April 9, 2002, may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Arts Commission in providing assistance directly related to a project described in subsection (1) of this section for which grant funds are provided under this section from the use of proceeds of such bonds. Reimbursement may be made only until such time as the project is completed. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the Mississippi Arts Commission. Reimbursement of reasonable actual and necessary costs for a project shall not exceed three percent (3%) of the proceeds of bonds issued for such project. Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects. This paragraph (b) shall be repealed from and after July 1, 2018.

(3) The Mississippi Arts Commission is expressly authorized and empowered to receive and expend any local or other source funds in connection with the expenditure of funds provided for in this section. The expenditure of money deposited into the special fund shall be under the direction of the Mississippi Arts Commission, and such funds shall be paid by the State Treasurer upon warrants issued by the Department of Finance and Administration upon request of the Mississippi Arts Commission, which warrants shall be issued upon requisitions signed by the Executive Director of the Mississippi Arts Commission, or his or her designee.

(4) The Mississippi Arts Commission shall adopt necessary rules and regulations to govern the administration of the program described in subsection (1) of this section, including, but not limited to, rules and regulations governing applications for grants and rules and regulations providing for the distribution of grant funds. The Mississippi Arts Commission shall comply with the provisions of the Mississippi Administrative Procedures Law.

SOURCES: Laws, 2001, ch. 541, § 2; Laws, 2002, ch. 540, § 2; Laws, 2003, ch. 519, § 2; 2004, 3rd Ex Sess, ch. 1, § 209; Laws, 2005, ch. 458, § 1; Laws, 2006, ch. 538, § 10; Laws, 2007, ch. 377, § 1; Laws, 2007, ch. 607, § 2; Laws, 2008, ch. 354, § 1; Laws, 2011, ch. 398, § 1; Laws, 2014, ch. 441, § 1, eff from and after July 1, 2014.

Joint Legislative Committee Note — Section 1 of ch. 377, Laws of 2007, effective from and after July 1, 2007 (approved March 15, 2007), amended this section. Section 2 of ch. 607, Laws of 2007, effective July 1, 2007 (approved April 25, 2007), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 607, Laws of 2007, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date shall supersede all other amendments to the same section approved on an earlier date.

Editor's Note — Laws of 2001, ch. 541, § 1, provides:

"SECTION 1. Sections 1 through 18 of this act may be cited as the 'Mississippi Cultural Development Act.'"

Sections 3 through 18 of Laws of 2001, ch. 541 provided for the issuance of general obligation bonds to provide funding for the Building Fund for the Arts.

Amendment Notes — The 2014 amendment extended the repealer provision from "July 1, 2014" to "July 1, 2018" in the last sentence of (2)(b).

Cross References — Mississippi Administrative Procedures Law, see §§ 25-43-1.101 et seq.

Mississippi Arts Commission, see §§ 39-11-1 et seq.

Federal Aspects — Nonprofit organizations qualified as tax exempt under § 501(c)(3) of the Internal Revenue Code, see 26 USCS § 501(c)(3).

CHAPTER 13

Historic Preservation Districts and Landmarks

Sec.	
39-13-1.	Short title.
39-13-2.	Definitions.
39-13-3.	Authority to create local historic preservation commissions; authority and procedure for establishment of districts and designation of landmarks.
39-13-5.	Historic preservation commissions; powers and duties; composition; terms of office; officers; minutes of meetings.
39-13-7.	Notification to Department of Archives and History of proposed designation of historic district or local historic preservation commission; comments by department concerning proposed district or commission.
39-13-9.	Appropriations; application by locality to participate in Certified Local Government Program of the National Park Service; eminent domain.
39-13-11.	Designation of historic districts, landmarks, and landmark sites; procedures; vote of historic preservation commission; public hearing; vote of local governing authority to adopt or reject designation.
39-13-13.	Issuance of certificates of appropriateness for certain construction, alteration, demolition or relocation of structures within a historic district or landmark property.
39-13-15.	Demolition by neglect; demolition of historic landmark or landmark site without review and approval by historic preservation commission.
39-13-17.	Penalties for violations; separate offense for each day violation exists.
39-13-19.	Appeal.
39-13-21.	In general.
39-13-23.	Effect on existing historic preservation commissions and historic district or landmark designations.

§ 39-13-1. Short title.

This chapter shall be cited as the "Mississippi Local Government Historic Preservation Law of 1978."

SOURCES: Laws, 1978, ch. 472, § 1, eff from and after passage (approved April 4, 1978).

ATTORNEY GENERAL OPINIONS

While the commission has statutory authority pursuant to this section to study and survey resources, to recommend to the city adoption of ordinances designating districts, landmarks and landmark sites, and to recommend subdistricts, the commission does not have statutory authority to grant or deny certificates of appropriateness for constructing, altering or demolishing buildings, to employ staff, or to make contracts with technical personnel. Regan, December 11, 1998, A.G. Op. #98-0790.

Any ordinance that the governing authorities of a city adopt must comply with the provisions of §§ 39-13-1 et seq., governing the area of local historic preservation; an ordinance making the preservation commission advisory only and providing that all decisions as to designations under the statute will lie solely with the board of aldermen is not in compliance. Carter, Sept. 27, 2002, A.G. Op. #02-0493.

A local historic preservation commission established under Sections 39-13-1 et seq. cannot be solely an advisory body. Nowak, Apr. 28, 2006, A.G. Op. 06-0143.

A municipal court judge would be violating the separation of powers doctrine by serving on an historic preservation commission. Belk, June 30, 2006, A.G. Op. 06-0244.

RESEARCH REFERENCES

Am Jur. 83 Am. Jur. 2d, Zoning and Planning §§ 33, 69.

CJS. 39A C.J.S., Health & Environment §§ 101, 102, 166-168, 170.

Law Reviews. Historic Preservation of the Zoning Power: A Mississippi Perspective. 50 Miss. L. J. 533, September 1979.

§ 39-13-2. Definitions.

The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Alteration" means any change in the exterior appearance or materials of a landmark or a structure within a historic district or on a landmark site.

(b) "Certificate of appropriateness" means an official signed and dated governmental document issued by either a local historic preservation commission or a governing authority to permit specific work in a historic district or at a landmark site or landmark which has been reviewed and approved.

(c) "Construction" means work which is neither alteration nor demolition. Essentially, it is the erection of a new structure which did not previously exist, even if such a structure is partially joined to an existing structure.

(d) "Demolition" means the intentional removal of a structure within a local historic district or on a landmark site or which has been designated as a landmark.

(e) "Demolition by neglect" means substantial deterioration of a historic structure that results from improper maintenance or a lack of maintenance.

(f) "Design review guidelines," if adopted by a local historic preservation commission, shall be in a written form designed to inform local property owners about historical architectural styles prevalent in a community and to recommend preferred treatments and discourage treatments that would compromise the architectural integrity of structures in a historic district or on a landmark site or individually designated as landmarks.

(g) "Historic landmark" means a structure of exceptional individual significance and typically is a structure which could not be included within a local historic district.

(h) "Historic preservation commission" means a municipal or county body established to advise a local government on matters relating to historic preservation, including the designation of historic districts, landmarks and landmark sites, and which may be empowered to review applications for permits for alteration, construction, demolition, relocation or subdivision for structures in historic districts or on landmark sites or designated as landmarks.

(i) "Historic district" means a group of two (2) or more tax parcels and their structures, and may be an entire neighborhood of structures linked by historical association or historical development. It is not necessary that all structures within a historic district share the same primary architectural style or be from the same primary historical period. A historic district may also include both commercial and residential structures, and may include structures covered by two (2) or more zoning classifications. A historic district may include both contributing and noncontributing structures.

(j) "Landmark site" means a location where a primary architectural or historical resource formerly stood or a significant historic event took place or an important archeological resource remains.

(k) "Period of greatest historic significance for a landmark" means the time period during which the landmark had been essentially completed but not yet altered. It is also the period during which the style of architecture of the landmark was commonplace or typical. If a landmark also achieved historical importance in part because of designed landscape features, the period of greatest historic significance includes the time period during which such landscape features were maintained.

(*l*) "Relocation" means the moving of a structure to a new location on its tax parcel or the relocation of such a structure to a new tax parcel.

(m) "Structure" means a man-made object and typically will be visible because of portions which exist above grade. Structures built during the historic period, 1700 forward, may in some instances not be visible above grade if they are cellars, cisterns, icehouses or similar objects which by their nature are intended to be built into the ground. A structure includes both interior components and visible exterior surfaces, as well as attached elements such as signs and related features such as walks, walls, fences and other nearby secondary structures or landmark features.

(n) "Subdistricts" means discrete areas within a larger historic district within which separate design guidelines are appropriate and that may be created to recognize different zoning classifications or historic development patterns which have caused adjacent historic areas to develop at different times.

(o) "Subdivision" includes any change in the boundaries of a single tax parcel, whether the change results in expansion or reduction or a boundary relocation.

(p) "Substantial deterioration" means structural degradation of such a nature that water penetration into a historic structure can no longer be prevented, or structural degradation that causes stress or strain on structural members when supports collapse or warp, evidence of which includes defective roofing materials, broken window coverings and visible interior decay.

(q) "Survey of resources" means the documentation, by historical research or a photographic record, of structures of historical interest within a specified area or jurisdiction or of existing structures within a proposed historic district.

(r) "Unauthorized demolition" means the deliberate demolition of a historic structure without prior review and approval by a local historic preservation commission or a governing authority to which such a commission has made a recommendation.

(s) "Unreasonable economic hardship" means the definition under constitutional standards used to determine whether a "taking" exists.

SOURCES: Laws, 2001, ch. 443, § 2, eff from and after July 1, 2001.

Cross References — Exemption from municipal ad valorem tax for certain structures in historic preservation districts, see § 17-21-5.

§ 39-13-3. Authority to create local historic preservation commissions; authority and procedure for establishment of districts and designation of landmarks.

The governing authority of each municipality and county, either independently or jointly with the governing authority of an adjacent municipality or county, or both, is hereby empowered, in its discretion, to enact ordinances providing for the creation of one or more local historic preservation commissions to advise on the establishment and location of potential historic districts and the designation of potential historic landmarks and landmark sites within the jurisdictional area of the governing authority. The governing authorities of each municipality and county, either independently or jointly with the governing authorities of an adjacent municipality, may enact ordinances for the establishment of such local historic districts, historic landmarks and landmark sites within the jurisdictional area of the governing authorities as these authorities shall choose to designate. Each such ordinance shall be adopted after investigation of the historical, architectural, archaeological and cultural significance of the buildings, structures, features, sites and surroundings of such districts, landmarks or landmark sites and after having held public hearing thereon. Notice of such public hearing, specifying the boundaries of any proposed historic district and the location of proposed historic landmarks and landmark sites shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such municipality or county. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the public hearing and the last publication shall be made not more than seven (7) days prior to such date. If no newspaper be published in such municipality or county, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such municipality or county.

An ordinance to establish a local historic preservation commission may precede an ordinance to designate one or more local historic districts and one or more landmarks or landmark sites. Whenever governing authorities enact such an ordinance creating a historic preservation commission before an ordinance or ordinances designating one or more local historic districts and one or more landmarks or landmark sites, the local historic preservation commission shall review such potential local historic districts or potential landmarks or landmark sites and make a recommendation to the governing authorities before such designation.

SOURCES: Laws, 1978, ch. 472, § 2; Laws, 2001, ch. 443, § 3, eff from and after July 1, 2001.

RESEARCH REFERENCES

ALR. Validity and construction of statute or ordinance protecting historical landmarks. 18 A.L.R.4th 990.

Application of requirement that newspaper be locally published for official notice publication. 85 A.L.R.4th 581.

Law Reviews. Historic Preservation of the Zoning Power: A Mississippi Perspective. 50 Miss. L. J. 533, September, 1979.

§ 39-13-5. Historic preservation commissions; powers and duties; composition; terms of office; officers; minutes of meetings.

Before it may designate one or more historic districts, or simultaneously with such designation, the governing body of any county or municipality, individually or jointly, shall establish a historic preservation commission to preserve, promote and develop the historical resources of such county or municipality in accordance with the provisions of this chapter. The historic preservation commission shall have the following powers:

(a) The commission shall conduct or cause to be conducted a continuing study and survey of resources within the county or municipality or combination thereof.

(b) The commission shall recommend to the county or municipality or combination thereof the adoption of ordinances designating historic districts, landmarks and landmark sites.

(c) The commission may recommend that the county or municipality or combination thereof recognize subdistricts within any historic district in order that the commission may adopt specific guidelines for the regulation of properties within such a subdistrict.

(d) The commission shall review applications proposing construction, alteration, demolition or relocation of any resource or subdivision of tax parcels designated as landmarks or landmark sites contained within a historic district. The document granting such an application shall be known as a certificate of appropriateness. No commission may deny a certificate of appropriateness for demolition if denial of such a certificate would cause unreasonable economic hardship to an owner.

(e) The commission shall use as a basis for its decisions on applications for certificates of appropriateness the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as well as any more specific design review guidelines adopted by the commission or the governing authority of the county or municipality or combination thereof.

(f) The commission, at the discretion of the governing authority, may grant or deny the certificates of appropriateness in whole or in part and may grant certificates of appropriateness contingent upon the acceptance by the applicant of specified conditions.

(g) The commission shall not consider interior arrangements of buildings and structures except that it may when requested by the Department of Archives and History to advise the department on questions relating to the interiors of publicly owned historic buildings. Interior arrangements not to be considered by the commission shall include floor plans, architectural details and finishes, but the commission may consider interior structural elements visible through doors or windows if they become deteriorated because of demolition by neglect. Such interior structural elements may include walls, floors and ceilings, as well as other supporting elements of a composite structure.

(h) The commission may, by local ordinance, review proposed governmental actions affecting governmentally owned structures included within local historic districts, located on landmark sites or designated as landmarks.

(i) The commission, subject to the consent of and requirements of the county or municipality or combination thereof, may apply for, receive, hold and spend funds from private and public sources in addition to appropriations made by the county or municipality or combination thereof for the purpose of carrying out the duties of the commission.

(j) The commission, subject to the consent of and the requirements of the county or municipality or combination thereof, may employ such staff or contract with technical experts or other persons as may be required for the performance of its duties and may obtain the equipment, supplies and other materials necessary for its effective operation.

(k) The commission, solely in the performance of its official duties and only at reasonable times, may enter upon private land for the examination or survey thereof. No member, employee or agent of the commission shall enter any private dwelling or structure without the express consent of the owner of record or occupant thereof.

(*l*) A municipality, by ordinance, may specify that color changes are outside the jurisdiction of the commission.

Such commission shall consist of not fewer than five (5) nor more than nine (9) residents of the county or municipality, or combination thereof, establishing the commission who shall be appointed by the governing authority with due regard to proper representation in such fields as history, architecture, urban planning, archaeology and law. All members of the commission shall serve at the will and pleasure of the governing authority appointing them and shall serve staggered terms. The precise method of appointment, and general terms of appointment, shall be specified in a local ordinance. If a documented good faith effort has been made unsuccessfully by the governing authority to locate residents of the county or municipality to serve on the commission, the governing authority may appoint individuals who own property within the boundary of the county or municipality, or both, or are in the service of an employer located within the boundary of the county or municipality, or both. The commission annually shall elect from its membership a chairman and a vice chairman and may employ such qualified staff personnel and counsel as it deems necessary. The commission shall retain as evidence of its discussions and decisions a complete set of minutes and may additionally create tape recordings or transcripts of its meetings. In addition, the commission shall retain copies of all applications filed with it including supporting documentation that may be added during open public meetings to supplement an original application or comment thereon. The commission shall advise the governing authority as to the designation of historic districts and the designation of historic landmarks and landmark sites. If any governing authority, in its discretion, chooses to divide the duties and responsibilities of the commission into no more than two (2) commissions or boards, each commission or board shall be established as directed in this section.

SOURCES: Laws, 1978, ch. 472, § 3; Laws, 1980, ch. 363; Laws, 2001, ch. 443, § 4, eff from and after July 1, 2001.

RESEARCH REFERENCES

Law Reviews. Historic Preservation of the Zoning Power: A Mississippi Perspective. 50 Miss. L. J. 533, September 1979.

§ 39-13-7. Notification to Department of Archives and History of proposed designation of historic district or local historic preservation commission; comments by department concerning proposed district or commission.

No historic district or districts shall be designated until the Mississippi Department of Archives and History has been notified by certified letter by the governing authority of a municipality or county and invited to make recommendations concerning the proposed district boundaries. The Mississippi Department of Archives and History may comment by letter, telephone, e-mail or in person through designated staff. The boundary of a historic district or landmark or landmark site may follow the formal legal description of a tax parcel or parcels or, because of historical justification or topographical conditions, may deviate from such formal legal descriptions. When a boundary deviates from formal legal descriptions, there must be written justification for such a deviation in any local designating ordinance.

When a municipality or county has already created by ordinance a local historic preservation commission, that commission shall jointly notify both the governing authority of the municipality or county and the Mississippi Department of Archives and History that a historic district is being proposed and recommended and shall provide to the Mississippi Department of Archives and

History the dates of the next two (2) public meetings of the governing authority at which action on the designation of such a district might be taken so that the Mississippi Department of Archives and History may comment in a timely manner. Failure of the Mississippi Department of Archives and History to comment by the date of the second such meeting shall relieve the municipality or county of any responsibility for awaiting and responding to such analysis, and the body may at any time thereafter take any necessary action to create the proposed historic district.

When a municipality or county has not previously created by ordinance a local historic preservation commission and the governing authority proposes to create such a commission, the governing authority must give the Mississippi Department of Archives and History an opportunity to comment on the proposed provisions for such an ordinance, unless such ordinance is substantially identical to any model local historic preservation ordinance which has been recommended and promulgated by the Mississippi Department of Archives and History. Whenever the Mississippi Department of Archives and History is invited to comment on the terms of a proposed local historic preservation ordinance, failure of the department to comment within forty-five (45) days after a written request for comments has been received shall relieve the governing authority of any responsibility to wait further for such comments.

SOURCES: Laws, 1978, ch. 472, § 4; Laws, 2001, ch. 443, § 5, eff from and after July 1, 2001.

Cross References — State department of archives and history generally, see §§ 39-5-1 et seq.

RESEARCH REFERENCES

Law Reviews. Historic Preservation of the Zoning Power: A Mississippi Perspective. 50 Miss. L. J. 533, September, 1979.

§ 39-13-9. Appropriations; application by locality to participate in Certified Local Government Program of the National Park Service; eminent domain.

The governing authority of any county or municipality, individually or jointly, is authorized to make appropriations to a historic preservation commission, in any amount that it may determine necessary for the expenses of the operation of such commission. A governing authority may apply to participate in the Certified Local Government Program of the National Park Service, which is administered in Mississippi by the Department of Archives and History and may on behalf of a local historic preservation commission apply for funding from the Department of Archives and History to supplement funds available from the governing authority itself. Said governing authorities shall not be empowered to acquire by eminent domain any historic preservation properties unless such properties are needed for governmental purposes other than historic preservation.

SOURCES: Laws, 1978, ch. 472, § 5; Laws, 2001, ch. 443, § 6, eff from and after July 1, 2001.

Cross References — Department of Archives and History generally, see §§ 39-5-1 et seq.

ATTORNEY GENERAL OPINIONS

The governing authorities of a municipality are authorized pursuant to the statute to make appropriations to a historic preservation commission for the expenses of operating the commission; however, there is no authority for the commission to hold and spend funds from public and private sources independently of the governing authorities. Regan, December 11, 1998, A.G. Op. #98-0790.

RESEARCH REFERENCES

Law Reviews. Historic Preservation of the Zoning Power: A Mississippi Perspective. 50 Miss. L. J. 533, September, 1979.

§ 39-13-11. Designation of historic districts, landmarks, and landmark sites; procedures; vote of historic preservation commission; public hearing; vote of local governing authority to adopt or reject designation.

A governing authority may provide by local ordinance the procedures to be followed to designate historic districts, landmarks and landmark sites. Such an ordinance may provide that a governing authority may designate such properties upon the recommendation of a local historic preservation commission.

A potential historic district or landmark or landmark site may be proposed for designation by either a majority of the members of a local historic preservation commission or an owner of a potential landmark or landmark site or an organization which has as one of its central purposes the promotion of historic preservation objectives. If in private ownership, a landmark site must include significant surviving landscape features to qualify for designation unless its primary significance is archeological, and new construction after review and approval, shall be built to fit into such landscape features rather than replace them or shall be designed to avoid insofar as possible an archeological resource rather than replace it. If in public ownership, a local historic preservation commission shall discourage new construction on a site of great significance to the entire community unless the new construction can be located on a portion of the site which will permit a continuing understanding of its historical character and will avoid damage to surviving landscape features or an archeological resource.

Once a nomination has been filed with an existing historic preservation commission or the governing authority of a municipality or county proposing to create such a commission and designate one or more local properties, a decision on whether to proceed with the designation must be made within six (6) months.

When a historic preservation commission already exists within a community, a majority of the commission's members must vote in favor of any proposed designation in order for the file supporting the designation to be sent forward to the local governing authority for its consideration. No file purporting to justify a proposed designation may be forwarded to a governing authority unless the commission's recommendation includes a map that clearly delineates boundaries for the proposed designation, a verbal description and justification of the proposed boundaries and a written statement of significance for the historic district or landmark or landmark site proposed for designation. Unless justification is contained in a designating ordinance, the boundary for any historic landmark shall include an entire tax parcel and may include adjoining tax parcels that were historically linked to the primary parcel during the period of greatest historic significance for the landmark structure.

The local governing authority must conduct at least one public hearing on the proposed designation and notice of the public hearing must be published weekly for at least three (3) consecutive weeks in a local newspaper authorized to publish legal notices.

The local governing authority must take action on the proposed designation within sixty (60) days of the public hearing, either to adopt a designating ordinance or to reject the proposed designation.

As quickly as would be reasonably possible, a local historic preservation commission must notify other municipal agencies and any appropriate county or state agencies of the designation of a historic district, landmark or landmark site. The commission must maintain in its official files an updated list and map of local designations and provide copies of such a map to other governmental agencies within one (1) week of the preparation of a new version of the map.

SOURCES: Laws, 2001, ch. 443, § 7, eff from and after July 1, 2001.

§ 39-13-13. Issuance of certificates of appropriateness for certain construction, alteration, demolition or relocation of structures within a historic district or landmark property.

A local historic preservation commission, if so empowered by a local ordinance or a local government acting upon the advice of a local historic preservation commission, may approve an application and issue a certificate of appropriateness if it finds that a proposed construction, alteration, demolition, subdivision or relocation is consistent with the design review guidelines established by the commission, would be compatible with the character of a historic district or landmark or landmark site and does not compromise the historic and architectural integrity of the historic district, landmark or landmark site. A governing authority may require that a property owner post a bond to guarantee satisfactory completion of a relocation project. Any local historic preservation ordinance shall specify whether partial demolition shall be considered an alteration or demolition, as it may not be both.

Whenever a local historic preservation commission shall deny or recommend denial of a certificate of appropriateness, the commission must state the reasons for such denial in writing. Thereafter, an applicant may resubmit a new application at any time, except that an applicant must wait six (6) months whenever an application for a certificate of appropriateness is denied for a landmark property of statewide or national significance and notice of any second or subsequent application must be sent to the Mississippi Department of Archives and History as well as to the local historic preservation commission.

A governing authority may require that denial of a certificate of appropriateness shall be binding upon a local building inspector or the agency responsible for issuing building permits and shall prevent the issuance of other building permits for the same parcel until a certificate of appropriateness is approved. A certificate of appropriateness may be required for work which does not require a building permit. A certificate of appropriateness may be evidenced by either a written and dated letter to an owner or applicant or such a letter accompanied by a signed and dated stamp on the face of any and all architectural or project drawings prepared for a project. A governing authority may provide by ordinance that a certificate of appropriateness shall expire at the end of a specified time period if work has not begun.

SOURCES: Laws, 2001, ch. 443, § 8, eff from and after July 1, 2001.

§ 39-13-15. Demolition by neglect; demolition of historic landmark or landmark site without review and approval by historic preservation commission.

The governing authority of any county or municipality, individually or jointly, may enact local legislation governing "demolition by neglect," defined as improper maintenance or lack of maintenance of any property in a historic district, or any historic landmark or landmark site, which results in substantial deterioration of such a property and threatens its continued stability and preservation. The governing authority of any county or municipality, individually or jointly, is further authorized, in its discretion, to fine any property owner who has been found to own a property that has been determined to be threatened by demolition by neglect as defined herein. Such property owner, from the date such property is found to be in demolition by neglect by the governing authority until such repairs are made to remove the danger to the property, shall be in violation of the provisions of this section.

In addition to the powers specified in Section 21-19-11(1), a governing authority, if the Historic Preservation Division of the Department of Archives and History concurs, may make repairs necessary to correct demolition by neglect, and the cost of such repairs shall become a lien against the property in accordance with Section 21-19-11(3).

If a property in a historic district or a historic landmark or landmark site is demolished without review and approval by a local historic preservation commission, the governing authority may require that the owner rebuild on the site using as much of the original building material as possible, but in general following the same form. A governing authority may specify by ordinance that unauthorized demolition of a portion of a structure shall not serve as justification for a demolition permit whenever it can be shown that restoration or rehabilitation would still be feasible.

Whenever a structure or structures is demolished without review and approval by a local historic preservation commission, the governing authority may require that no permit be issued for any structure or structures proposed for the same parcel which would require a footprint larger than the footprint of the demolished structure or structures.

If a historic landmark or landmark site of statewide or national significance is demolished without review and approval by a local historic preservation commission, the governing authority may require that no permit for any construction on the parcel from which the landmark or landmark site has been removed may be issued for a period of up to twenty-four (24) months.

SOURCES: Laws, 2001, ch. 443, § 9, eff from and after July 1, 2001.

§ 39-13-17. Penalties for violations; separate offense for each day violation exists.

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than Ten Dollars ($10.00) nor more than Five Hundred Dollars ($500.00).

Each day that a violation continues to exist shall constitute a separate offense.

SOURCES: Laws, 2001, ch. 443, § 10, eff from and after July 1, 2001.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 39-13-19. Appeal.

If a property owner in a historic district, or the owner of a historic landmark or landmark site, is denied a certificate of appropriateness, the property owner may appeal such decision either to the governing authority of the city or county or combination thereof or may, if such venue has been made available at the discretion of the governing authority, appeal directly to the chancery court. Any such appeal shall be reviewed upon the record established before the local historic preservation commission. Any local property owner or organization aggrieved or damaged by such a decision may appeal in the same manner.

SOURCES: Laws, 2001, ch. 443, § 11, eff from and after July 1, 2001.

§ 39-13-21. In general.

The governing authorities of each municipality and county may stabilize the economy of the areas within the boundary of such municipality or county through the continued use, preservation and revitalization of key historic and architectural resources. It is recognized that the protection and enhancement of such attractions help to attract tourists and visitors, and that the further development of local heritage tourism programs supports and stimulates local business and industry. This chapter permits governing authorities to strengthen civic pride and ensure cultural stability through neighborhood conservation and historic preservation activities. This chapter establishes a review process for the preservation and appropriate redevelopment of the key historic and architectural resources of a governing authority and creates procedures which ensure adequate public notice before the creation of local historic preservation commissions or the designation of local historic districts, landmarks and landmark sites.

SOURCES: Laws, 2001, ch. 443, § 1, eff from and after July 1, 2001.

§ 39-13-23. Effect on existing historic preservation commissions and historic district or landmark designations.

Nothing in Laws, 2001, ch. 443 shall require the dissolution of any local historic preservation commission created in Mississippi before July 1, 2001. Any local historic preservation commission created by ordinance before July 1, 2001 shall continue in existence and continue to have all of the purposes, powers and authority set out in the ordinance creating such commission. Any such previously created commission may be given the powers set forth in this chapter if a governing authority reenacts a local ordinance in conformity with this chapter.

No designation of a historic district or landmark or landmark site shall be invalidated because the designation was made under a valid ordinance before July 1, 2001.

SOURCES: Laws, 2001, ch. 443, § 12, eff from and after July 1, 2001.

CHAPTER 15

Municipal and County Funds to Support the Arts

Sec.
39-15-1. Authority of municipal and county government to expend general fund monies in support of the arts.

§ 39-15-1. Authority of municipal and county government to expend general fund monies in support of the arts.

The governing authorities of any municipality or county are hereby authorized and empowered, in their discretion, to expend monies from the municipal or county general fund to match any other funds available for the purpose of supporting the development, promotion and coordination of the arts within such municipality or county.

SOURCES: Laws, 1986, ch. 496, eff from and after passage (approved April 16, 1986).

ATTORNEY GENERAL OPINIONS

Pursuant to Section 39-15-1, a City has authority to expend $100,000.00 to match funds of the Arts Council to restore and renovate a building for the purposes of the Arts Council, i.e., development, promotion and coordination of the arts. Mims, November 8, 1996, A.G. Op. #96-0750.

The City of Brookhaven may make a contribution of $60,000.00 to the Brookhaven Trust to secure matching funds for the renovation and repair of the Mary Jane Lambton Auditorium, a Mississippi landmark, if the governing authorities of the city finds that the contribution would support the development, promotion, and coordination of the arts within the municipality pursuant to the statute. Fernald, September 4, 1998, A.G. Op. #98-0530.

Governing authorities of the City of Vicksburg may spend funds to match other funds for the development and promotion of the Blues Museum and for programs coordinating the arts at the museum. Thomas, Sept. 27, 2002, A.G. Op. #02-0557.

While a county or municipality may condition a donation upon the availability of matching funds by evidencing an intent to expend the funds, the funds may not actually be spent until the matching funds are actually available. The pertinent inquiry is not how much time is reasonable before matching funds are secured, but whether, when the public funds are expended, the matching funds are in fact “available.” Brooks, Apr. 7, 2006, A.G. Op. 06-0061.

CHAPTER 17

Mississippi Sports Hall of Fame and Dizzy Dean Museum

In General 39-17-1

Construction, Repair, Remodeling, Equipping, Furnishing, Adding to or Improving Capital Facility 39-17-101

IN GENERAL

Sec.

39-17-1. Recognition of need for Sports Hall of Fame.

39-17-3. Site of Mississippi Sports Hall of Fame and Dizzy Dean Museum.

39-17-5. Funding of facility; special account.

39-17-7. Construction, furnishing and equipping of facility.

39-17-9. Lease of facility to nonprofit corporation.

§ 39-17-1. Recognition of need for Sports Hall of Fame.

The Legislature recognizes the need for a Sports Hall of Fame to honor Mississippians who have made significant contributions to Mississippi through sports. The Legislature further recognizes that a Sports Hall of Fame would be of great economic and cultural importance to Mississippi.

SOURCES: Laws, 1993, ch. 489, § 1, eff from and after passage (approved April 1, 1993).

§ 39-17-3. Site of Mississippi Sports Hall of Fame and Dizzy Dean Museum.

The Mississippi Sports Hall of Fame and Dizzy Dean Museum may be constructed on property currently owned by the state and located adjacent to the Jim Buck Ross Mississippi Agriculture and Forestry Museum in Jackson, Mississippi, or on property located adjacent to the Jim Buck Ross Mississippi Agriculture and Forestry Museum and conveyed to the state by the City of Jackson. The Department of Finance and Administration may enter into agreement with the governing authorities of the City of Jackson for the movement and relocation of exhibits housed in the currently existing Dizzy Dean Museum.

SOURCES: Laws, 1993, ch. 489, § 2, eff from and after passage (approved April 1, 1993).

§ 39-17-5. Funding of facility; special account.

The Mississippi Sports Hall of Fame and Dizzy Dean Museum shall be funded, in part, by the sale of exclusive rights to market soft drinks at the State Fairgrounds, the Jim Buck Ross Mississippi Agriculture and Forestry Museum and the Mississippi Sports Hall of Fame and Dizzy Dean Museum; however, the sale of such rights for the state fairgrounds shall include the

Mississippi State Fair and the Dixie National Livestock Show and Rodeo and no other event or activity on the state fairgrounds. The Mississippi Fair Commission and the Mississippi Department of Agriculture and Commerce shall have the authority to enter contracts for the sale of the aforementioned exclusive rights for a term not exceeding twelve (12) years per contract. If bids for the purchase of such rights are in an amount that is less than the amount needed to construct the Mississippi Sports Hall of Fame and Dizzy Dean Museum, then the Mississippi Fair Commission and the Mississippi Department of Agriculture and Commerce may reject all bids and shall not be obligated to enter into such contracts. Funds so generated shall be deposited in a special, interest-bearing account, in the State Treasury to be administered by the Department of Finance and Administration. The account shall be known as the "Mississippi Sports Hall of Fame and Dizzy Dean Museum Account" and all interest accrued thereon shall be credited to the account. Any funds in the account shall not lapse into the General Fund at the end of the fiscal year but shall remain in the account. Any balance remaining at the end of the project shall be transferred to the operating account of the Mississippi Sports Hall of Fame and Dizzy Dean Museum.

SOURCES: Laws, 1993, ch. 489, § 3, eff from and after passage (approved April 1, 1993).

Cross References — Mississippi Fair Commission, see §§ 69-5-1 et seq.

§ 39-17-7. Construction, furnishing and equipping of facility.

The Department of Finance and Administration shall proceed with constructing, furnishing and equipping the facility as soon as practicable after April 1, 1993.

SOURCES: Laws, 1993, ch. 489, § 4, eff from and after passage (approved April 1, 1993).

§ 39-17-9. Lease of facility to nonprofit corporation.

The Department of Finance and Administration may lease the Mississippi Sports Hall of Fame and Dizzy Dean Museum for a period not exceeding twenty (20) years to a nonprofit corporation whose primary purpose for incorporation is the support and improvement of the Mississippi Sports Hall of Fame and Dizzy Dean Museum. The benefit to Mississippi from the operation of such lease shall be considered as sufficient consideration. The lease shall be executed for a nominal fee and it shall be presumed that such lease shall not amount to a donation of state property.

SOURCES: Laws, 1993, ch. 489, § 5, eff from and after passage (approved April 1, 1993).

CONSTRUCTION, REPAIR, REMODELING, EQUIPPING, FURNISHING, ADDING TO OR IMPROVING CAPITAL FACILITY

Sec.

39-17-101. Department of Finance and Administration authorized to issue general obligation bonds for construction, repairing, remodeling, equipping, furnishing, adding to or improving the capital facility of Mississippi Sports Hall of Fame and Dizzy Dean Museum.
39-17-103. Form and terms of bonds.
39-17-105. Execution of bonds and coupons.
39-17-107. Negotiability of bonds and coupons; compliance with Uniform Commercial Code not required.
39-17-109. State Bond Commission to issue bonds; sale and redemption of bonds.
39-17-111. Bonds deemed general obligations of State; payment of principal and interest from State treasury.
39-17-113. Certification of necessity for warrants; issuance of warrants to pay principal of and interest on bonds.
39-17-115. Deposit of proceeds of bonds into "Mississippi Sports Hall of Fame Fund"; use of funds.
39-17-117. Proceedings, conditions, etc., for issuance of bonds; bond issue resolution.
39-17-119. Validation of bonds.
39-17-121. Enforcement of rights of bondholders.
39-17-123. Bonds as legal investments and securities.
39-17-125. Exemption from taxation of bonds and income.
39-17-127. Construction of §§ 39-17-101 through 39-17-127.

§ 39-17-101. Department of Finance and Administration authorized to issue general obligation bonds for construction, repairing, remodeling, equipping, furnishing, adding to or improving the capital facility of Mississippi Sports Hall of Fame and Dizzy Dean Museum.

The Department of Finance and Administration, at one time or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for construction, repairing, remodeling, equipping, furnishing, adding to or improving the capital facility of the Mississippi Sports Hall of Fame and Dizzy Dean Museum authorized under Sections 39-17-1 through 39-17-9. Upon the adoption of a resolution by the Department of Finance and Administration, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the department shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of such resolution, the State Bond Commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The amount of bonds issued under Sections 39-17-101 through 39-17-127 shall not exceed Two Million Five Hundred Thousand Dollars ($2,500,000.00).

SOURCES: Laws, 1994, ch. 551, § 1, eff from and after July 1, 1994.

Cross References — State Bond Commission, see §§ 31-17-1 et seq.

RESEARCH REFERENCES

ALR. Authority of state, municipality, or other governmental entity to accept late bids for public works contracts. 49 A.L.R.5th 747.

§ 39-17-103. Form and terms of bonds.

The principal of and interest on the bonds authorized under Sections 39-17-101 through 39-17-127 shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101, be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty (20) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as determined by resolution of the State Bond Commission.

SOURCES: Laws, 1994, ch. 551, § 2, eff from and after July 1, 1994.

Cross References — State Bond Commission, see §§ 31-17-1 et seq.

Maximum interest rates on general obligation and limited obligation tax bonds, see § 75-17-101.

§ 39-17-105. Execution of bonds and coupons.

The bonds authorized under Sections 39-17-101 through 39-17-127 shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be affixed thereto, attested by the Secretary of the State Bond Commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything in Sections 39-17-101 through 39-17-127 to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SOURCES: Laws, 1994, ch. 551, § 3, eff from and after July 1, 1994.

Cross References — State Bond Commission, see §§ 31-17-1 et seq.
Registered Bond Act, see §§ 31-21-1 et seq.

§ 39-17-107. Negotiability of bonds and coupons; compliance with Uniform Commercial Code not required.

All bonds and interest coupons issued under the provisions of Sections 39-17-101 through 39-17-127 have all the qualities and incidents of negotiable instruments under the provisions of the Mississippi Uniform Commercial Code, and in exercising the powers granted by Sections 39-17-101 through 39-17-127, the State Bond Commission shall not be required to and need not comply with the provisions of the Mississippi Uniform Commercial Code.

SOURCES: Laws, 1994, ch. 551, § 4, eff from and after July 1, 1994.

Cross References — State Bond Commission, see §§ 31-17-1 et seq.
Uniform Commercial Code, negotiable instruments generally, see §§ 75-3-101 et seq.

§ 39-17-109. State Bond Commission to issue bonds; sale and redemption of bonds.

The State Bond Commission shall act as the issuing agent for the bonds authorized under Sections 39-17-101 through 39-17-127, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 39-17-101 through 39-17-127 from the proceeds derived from the sale of the bonds. The State Bond Commission shall sell such bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale may be made at a price less than par plus accrued interest to the date of delivery of the bonds to the purchaser. All interest accruing on such bonds so issued shall be payable semiannually or annually; however, the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any such bond shall be published at least one (1) time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, and in one or more other newspapers or financial journals with a national circulation, to be selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of Sections 39-17-101 through 39-17-127, may provide that the bonds, at the option of the State of Mississippi, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

SOURCES: Laws, 1994, ch. 551, § 5, eff from and after July 1, 1994.

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 39-17-111. Bonds deemed general obligations of State; payment of principal and interest from State treasury.

The bonds issued under the provisions of Sections 39-17-101 through 39-17-127 are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds appropriated by the Legislature are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this section.

SOURCES: Laws, 1994, ch. 551, § 6, eff from and after July 1, 1994.

§ 39-17-113. Certification of necessity for warrants; issuance of warrants to pay principal of and interest on bonds.

The State Treasurer is authorized to certify to the State Fiscal Officer the necessity for warrants, and the State Fiscal Officer is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accredited value of, all bonds issued under Sections 39-17-101 through 39-17-127; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest on the bonds, on their due dates.

SOURCES: Laws, 1994, ch. 551, § 7, eff from and after July 1, 1994.

Editor's Note — Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

§ 39-17-115. Deposit of proceeds of bonds into "Mississippi Sports Hall of Fame Fund"; use of funds.

Upon the issuance and sale of bonds under Sections 39-17-101 through 39-17-127, the State Bond Commission shall deposit the proceeds of any such sale or sales in a special fund created in the State Treasury to be known as the "Mississippi Sports Hall of Fame Fund." The proceeds of such bonds shall be used solely for the purposes provided in Sections 39-17-101 through 39-17-127, including the costs incident to the issuance and sale of such bonds. The costs incident to the issuance and sale of such bonds shall be disbursed by warrant upon requisition of the State Bond Commission, signed by the chairman of the commission. The remaining moneys in the fund shall be expended solely under the direction of the Department of Finance and Administration under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds, and such funds shall be paid by the State Treasurer upon warrants issued by the State Fiscal Officer.

SOURCES: Laws, 1994, ch. 551, § 8, eff from and after July 1, 1994.

Editor's Note — Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 39-17-117. Proceedings, conditions, etc., for issuance of bonds; bond issue resolution.

The bonds authorized under Sections 39-17-101 through 39-17-127 may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things that are specified or required by Sections 39-17-101 through 39-17-127. Any resolution providing for the issuance of bonds under Sections 39-17-101 through 39-17-127 shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

SOURCES: Laws, 1994, ch. 551, § 9, eff from and after July 1, 1994.

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 39-17-119. Validation of bonds.

The bonds authorized under the authority of Sections 39-17-101 through 39-17-127 may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

SOURCES: Laws, 1994, ch. 551, § 10, eff from and after July 1, 1994.

§ 39-17-121. Enforcement of rights of bondholders.

Any holder of bonds issued under Sections 39-17-101 through 39-17-127 or of any of the interest coupons pertaining to the bonds may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce all rights granted under Sections 39-17-101 through 39-17-127, or under such resolution, and may enforce and compel performance of all duties required by Sections 39-17-101 through 39-17-127 to be performed, in order to provide for the payment of bonds and interest on the bonds.

SOURCES: Laws, 1994, ch. 551, § 11, eff from and after July 1, 1994.

§ 39-17-123. Bonds as legal investments and securities.

All bonds issued under Sections 39-17-101 through 39-17-127 shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities that may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SOURCES: Laws, 1994, ch. 551, § 12, eff from and after July 1, 1994.

§ 39-17-125. Exemption from taxation of bonds and income.

Bonds issued under Sections 39-17-101 through 39-17-127 and income from the bonds shall be exempt from all taxation in the State of Mississippi.

SOURCES: Laws, 1994, ch. 551, § 13, eff from and after July 1, 1994.

§ 39-17-127. Construction of §§ 39-17-101 through 39-17-127.

Sections 39-17-101 through 39-17-127 shall be deemed to be full and complete authority for the exercise of the powers granted, but Sections 39-17-101 through 39-17-127 shall not be deemed to repeal or to be in derogation of any existing law of this state.

SOURCES: Laws, 1994, ch. 551, § 14, eff from and after July 1, 1994.

CHAPTER 19

Museum Unclaimed Property Act

Sec.

39-19-1.	Short title.
39-19-3.	Definitions.
39-19-5.	Property loaned to museum; duties of museum.
39-19-7.	Property loaned to museum; duties of lender.
39-19-9.	Termination of loan for unclaimed property.
39-19-11.	Acquisition of title to unclaimed property.
39-19-13.	Escheat to state prohibited.
39-19-15.	Transfer of title by museum.
39-19-17.	Lien for expenses for care of unclaimed loaned property.
39-19-19.	Conservation measures to property on loan.
39-19-21.	Loan provisions by written contract.

§ 39-19-1. Short title.

This chapter shall be known and may be cited as the "Museum Unclaimed Property Act."

SOURCES: Laws, 1997, ch. 464, § 1, eff from and after passage (approved March 26, 1997).

§ 39-19-3. Definitions.

The following words and phrases shall have the meanings ascribed herein, unless the context clearly requires otherwise:

(a) "Lender" means an individual, corporation, partnership, trust, estate, or similar organization, whose name appears on the records of the museum as the entity legally entitled to control property on loan to the museum.

(b) "Loan," "on loan," or "loaned," means property in the possession of the museum accompanied by evidence that the lender intended to retain title to the property and to return to take physical possession of the property in the future.

(c) "Museum" means a public or private nonprofit agency or institution located in this state and organized on a permanent basis for essentially educational or aesthetic purposes, which utilizes a professional staff, owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis.

(d) "Museum records" means documents created and/or held by the museum in its regular course of business.

(e) "Property" means a tangible object, in the custody of a museum, that has intrinsic historical, artistic, scientific, or cultural value.

(f) "Restricted certified mail" means certified mail that carries on its face, in a conspicuous place where it will not be obliterated, the endorsement "deliver to addressee only" and for which the post office provides the mailer with a return receipt showing the date of delivery, the place of delivery, and the person to whom delivered.

(g) "Unclaimed property" means property meeting the following two (2) conditions: (a) property is on loan to the museum; (b) the original lender, or anyone acting legitimately on the lender's behalf, has not contacted the museum in writing for at least twenty-five (25) years from the date of the beginning of the loan, if the loan was for an indefinite or undetermined period, or for at least five (5) years after the date upon which the loan for a definite period expired.

SOURCES: Laws, 1997, ch. 464, § 2, eff from and after passage (approved March 26, 1997).

§ 39-19-5. Property loaned to museum; duties of museum.

(1) For property loaned to a museum on or after March 26, 1997, the museum shall do all of the following at the time of the loan:

(a) Make and retain a written record containing at least all of the following:

(i) The lender's name, address, and telephone number;

(ii) A description of the property loaned in sufficient detail for ready identification;

(iii) The beginning date of the loan; and

(iv) The expiration date of the loan.

(b) Provide the lender with a signed receipt or loan agreement containing at a minimum the record set forth in subsection (a) above.

(c) Inform the lender of the existence of this chapter and provide the lender with a copy of this chapter upon the lender's request.

(2) Regardless of the date of a loan of property, the museum shall do the following:

(a) Update its records if a lender informs the museum of a change of address or change in ownership of property loaned, or if the lender and museum negotiate a change in the duration of the loan; and

(b) Inform the lender of the existence of this chapter when renewing or updating the records of an existing loan and provide the lender with a copy of this chapter upon the lender's request.

SOURCES: Laws, 1997, ch. 464, § 3, eff from and after passage (approved March 26, 1997).

§ 39-19-7. Property loaned to museum; duties of lender.

(1) As of March 26, 1997, the lender, or any successor of the lender, regardless of the date of a loan of property in the custody of a museum, shall promptly notify the museum in writing:

(a) Of a change in the lender's address; and

(b) Of a change in ownership in the property on loan to the museum.

(2) It shall be the responsibility of a successor of a lender to document the passage of rights of control to the property in the custody of the museum.

(a) Unless there is evidence of bad faith or gross negligence, a museum shall not be prejudiced by reason of any failure to deal with the true owner of any loaned property.

(b) In cases of disputed ownership of loaned property, a museum shall not be held liable for its refusal to surrender loaned property in its possession except in reliance upon a court order or judgment.

SOURCES: Laws, 1997, ch. 464, § 4, eff from and after passage (approved March 26, 1997).

§ 39-19-9. Termination of loan for unclaimed property.

A museum may terminate a loan for unclaimed property in its possession as follows:

(a) The museum shall make a good faith and reasonable search for the identity and last known address of the lender from the museum records and other records reasonably available to museum staff. If the museum identifies the lender and the lender's last known address, the museum shall give actual notice to the lender that the loan is terminated pursuant to subsection (b) of this section. If the identify or the last known address of the lender remains unknown after the search, the museum shall give notice by publication pursuant to subsection (c) of this section.

(b) Actual notice of termination of a loan of unclaimed property shall take substantially the following form. The museum shall send a letter by restricted certified mail to the lender at the lender's last known address giving a notice of termination of the loan, which shall include the following information:

(i) Date of notice of termination;

(ii) Name of lender;

(iii) Description of property in sufficient detail for ready identification;

(iv) Approximate beginning date of the loan (and termination date, if applicable), if known;

(v) The name and address of the appropriate museum official to be contacted regarding the loan; and

(vi) A statement that within ninety (90) days of the date of the notice of termination, the lender is required to remove the property from the museum or contact the designated official in the museum in writing to preserve the lender's interests in the property and that failure to do so will result in the loss of all rights in the property pursuant to Section 39-19-11.

(c) If the museum is unable to identify sufficient information to send actual notice pursuant to subsection (a) of this section, or if a signed return receipt of a notice sent by restricted certified mail under subsection (b) of this section is not received by the museum within thirty (30) days after the notice is mailed, the museum shall publish the notice of termination of loan containing all the information available to the museum as provided in subsection (b)(i) through (v) of this section at least twice, sixty (60) or more days apart, in a publication of general circulation in the county in which the museum is located, and the county of the lender's last known address, if known.

SOURCES: Laws, 1997, ch. 464, § 5, eff from and after passage (approved March 26, 1997).

§ 39-19-11. Acquisition of title to unclaimed property.

From and after March 26, 1997, a museum acquires title to unclaimed property, under any of the following circumstances:

(a) If a lender of property does not contact the museum in writing within ninety (90) days after the date notice was received for property for which a museum provides actual notice to a lender in accordance to Section 39-19-9 and for which a signed receipt has been received.

(b) If a lender or anyone claiming a legal interest in that property does not contact the museum in writing within ninety (90) days after the date of the second publication, and notice by publication has been made pursuant to Section 39-19-9.

SOURCES: Laws, 1997, ch. 464, § 6, eff from and after passage (approved March 26, 1997).

§ 39-19-13. Escheat to state prohibited.

(1) Property on loan to a museum shall not escheat to the state under any state escheat law, but shall pass to the museum under the provisions of Section 39-19-11.

(2) Property interests other than those specifically addressed in this chapter are not affected by this chapter.

SOURCES: Laws, 1997, ch. 464, § 8, eff from and after passage (approved March 26, 1997).

§ 39-19-15. Transfer of title by museum.

A museum which acquires title to property under this chapter passes good title to another when transferring the property with the intent to pass title.

SOURCES: Laws, 1997, ch. 464, § 9, eff from and after passage (approved March 26, 1997).

Cross References — Acquisition of title by museum, see § 39-19-11.

§ 39-19-17. Lien for expenses for care of unclaimed loaned property.

From and after March 26, 1997, a museum shall have a lien for expenses incurred for reasonable care of loaned property unclaimed after the expiration date of the loan.

SOURCES: Laws, 1997, ch. 464, § 10, eff from and after passage (approved March 26, 1997).

§ 39-19-19. Conservation measures to property on loan.

(1) Unless there is a written agreement between the museum and the lender to the contrary, a museum may apply conservation measures to property on loan to the museum without the lender's or claimant's permission if immediate action is required to protect the property on loan or other property in the custody of the museum or if the property on loan is a hazard to the health and safety of the public or the museum staff and if any of the following apply:

(a) The museum is unable to reach the lender or claimant at the lender's or claimant's last known address or phone number, and if action is to be taken within more than three (3) days, but less than one (1) week from the time the museum determined action was necessary;

(b) The museum is unable to reach the lender or claimant at the lender's or claimant's last known phone number before taking action if the action is to be taken within three (3) days or less from the time the museum determined action was necessary; or

(c) The lender or claimant does not respond or will not agree to the protective measures the museum recommends, yet is unwilling or unable to terminate the loan and retrieve the property.

(2) If a museum applies conservation measures to property as provided by this section, or with the agreement of the lender and claimants, unless the agreement provides otherwise, the museum:

(a) Has a lien on the property and on the proceeds of any disposition of the property for the costs incurred by the museum; and

(b) Is not liable for injury to or loss of the property if the museum:

(i) Had a reasonable belief at the time the action was taken that the action was necessary to protect the property on loan or other property in the custody of the museum, or that the property on loan was a hazard to the health and safety of the public or the museum staff; and

(ii) Exercised reasonable care in the choice and application of conservation measures.

SOURCES: Laws, 1997, ch. 464, § 11; Laws, 1998, ch. 441, § 1, eff from and after July 1, 1998.

§ 39-19-21. Loan provisions by written contract.

Notwithstanding the provisions of this chapter, a lender and museum can bind themselves to different loan provisions by written contract.

SOURCES: Laws, 1997, ch. 464, § 7, eff from and after passage (approved March 26, 1997).

CHAPTER 21

Mississippi Craft Center

Sec.	
39-21-1.	Legislative intent.
39-21-3.	Mississippi craft center; location; construction.
39-21-5.	Authority of Department of Finance and Administration to Construct Mississippi Craft Center.
39-21-7.	Lease or operating agreement with Mississippi Craftmen's Guild.

§ 39-21-1. Legislative intent.

The Legislature recognizes the need for a craft center in Mississippi to enable Mississippi craft persons to demonstrate their skills and display their creations to Mississippians and tourists from other states. The Legislature further recognizes that a craft center would be of great economic and cultural importance to Mississippi.

SOURCES: Laws, 1997, ch. 501, § 1, eff from and after July 1, 1997.

Editor's Note — Laws of 1997, ch. 501, §§ 5 through 17 were excluded from codification as state bonds.

Laws of 1997, ch. 501, § 18 provides:

"SECTION 18. This act shall be deemed to be full and complete authority for the exercise of the powers granted, but this act shall not be deemed to repeal or to be in derogation of any existing law of this state."

ATTORNEY GENERAL OPINIONS

The Mississippi Department of Agriculture and Commerce may rent space to the Craftsmen's Guild of Mississippi, Inc., at the Jim Buck Ross Mississippi Agriculture and Forestry Museum upon such terms and for such consideration, monetary or otherwise, as the Department may find as a matter of fact is sufficient. Spell, April 24, 1998, A.G. Op. #98-0225.

§ 39-21-3. Mississippi craft center; location; construction.

(1) A facility to house the Mississippi Craft Center may be located within the corporate limits of Ridgeland, Mississippi.

(2) Consideration for the purchase of the property described in subsection (1) of this section necessary for the construction of the facility to house the Mississippi Craft Center shall not exceed the average of the fair market price for such real property as determined by two (2) professional property appraisers selected by the Department of Finance and Administration and certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board. Appraisal fees shall be paid by the Department of Finance and Administration from the proceeds of the bonds issued pursuant to Chapter 501, Laws of 1997.

SOURCES: Laws, 1997, ch. 501, § 2; Laws, 2000, ch. 457, § 1, eff from and after passage (approved Apr. 19, 2000.)

Editor's Note — Laws of 1997, ch. 501, §§ 5 through 17 were excluded from codification as state bonds.

Laws of 1997, ch. 501, § 18 provides:

"SECTION 18. This act shall be deemed to be full and complete authority for the exercise of the powers granted, but this act shall not be deemed to repeal or to be in derogation of any existing law of this state."

§ 39-21-5. Authority of Department of Finance and Administration to Construct Mississippi Craft Center.

The Department of Finance and Administration shall proceed with the purchase of necessary property, and constructing, furnishing and equipping a facility to house the Mississippi Craft Center as soon as practicable.

SOURCES: Laws, 1997, ch. 501, § 3, eff from and after July 1, 1997.

Editor's Note — Laws of 1997, ch. 501, §§ 5 through 17 were excluded from codification as state bonds.

Laws of 1997, ch. 501, § 18 provides:

"SECTION 18. This act shall be deemed to be full and complete authority for the exercise of the powers granted, but this act shall not be deemed to repeal or to be in derogation of any existing law of this state."

§ 39-21-7. Lease or operating agreement with Mississippi Craftmen's Guild.

Upon completion of the construction, furnishing and equipping of the facility to house the Mississippi Craft Center as provided for in this chapter, the Department of Finance and Administration shall enter into a lease, sublease or operating agreement for a period not exceeding twenty (20) years, with The Craftsmen's Guild of Mississippi, Inc. whereunder The Craftsmen's Guild of Mississippi, Inc., shall assume exclusive responsibilities for operating the facility. The benefit to Mississippi from the operation of such lease, sublease or operating agreement shall be considered as sufficient consideration. The lease, sublease or operating agreement shall be executed for a nominal fee and it shall be presumed that such lease shall not amount to a donation of state property.

SOURCES: Laws, 1997, ch. 501, § 4, eff from and after July 1, 1997.

Editor's Note — Laws of 1997, ch. 501, §§ 5 through 17 were excluded from codification as state bonds.

Laws of 1997, ch. 501, § 18 provides:

"SECTION 18. This act shall be deemed to be full and complete authority for the exercise of the powers granted, but this act shall not be deemed to repeal or to be in derogation of any existing law of this state."

ATTORNEY GENERAL OPINIONS

The Mississippi Department of Agriculture and Commerce may rent space to the Craftsmen's Guild of Mississippi, Inc., at the Jim Buck Ross Mississippi Agriculture and Forestry Museum upon such terms and for such consideration, monetary or otherwise, as the Department may find as a matter of fact is sufficient. Spell, April 24, 1998, A.G. Op. #98-0225.

CHAPTER 23

Mississippi Children's Museum

Sec.	
39-23-1.	Recognition of need for Mississippi Children's Museum.
39-23-3.	Location of Mississippi Children's Museum.
39-23-5.	Repair, renovation, furnishing and equipping of facility.
39-23-7.	Lease of facility to nonprofit corporation.

§ 39-23-1. Recognition of need for Mississippi Children's Museum.

The Legislature recognizes the need for a children's museum in Mississippi to promote the educational and social development, well-being and joy of children. The Legislature further recognizes that a children's museum would be of great economic and cultural importance to Mississippi.

SOURCES: Laws, 1997, ch. 535, § 16, eff from and after July 1, 1997.

§ 39-23-3. Location of Mississippi Children's Museum.

The Mississippi Children's Museum may be located:

(a) At the old National Guard Armory located on the Mississippi State Fairgrounds in Jackson, Mississippi, after the repair, renovation, furnishing and equipping of such facility by the Department of Finance and Administration as provided for in Sections 16 through 33 of Chapter 535, Laws of 1997, as amended;

(b) In such structure and at such location as shall be submitted by the Board of Directors of the Mississippi Children's Museum, a Mississippi nonprofit corporation, to and approved as an appropriate structure and location by the Department of Finance and Administration, after the repair, renovation, furnishing and equipping of such facility by the Department of Finance and Administration as provided in Sections 16 through 33 of Chapter 535, Laws of 1997, as amended; or

(c) In the building, formerly known as the Mississippi Museum of Natural Science, on land located adjacent to the State Fairgrounds in the City of Jackson, County of Hinds, Mississippi, described more specifically as follows:

Starting at the point of intersection of the
North line of Pearl Street and the West line of
Jefferson Street, run Northerly along the West
line of Jefferson Street a distance of 240 feet
to the point of beginning, an iron pin.
Continue Northerly along the West line of
Jefferson Street for a distance of 257.9 feet to
an iron pin; turn left through an angle of 89 degrees -
57 minutes — 14 seconds and run Westerly for a

distance of 278.9 feet to an iron pin on the east
right-of-way line of the G.M. & O. Railroad; turn
left through an angle of 79 degrees — 29 minutes -
30 seconds and run Southerly along the East right-of-way
of the G.M. & O. Railroad (Said line being a curve
to the left with a radius of 2814.93 feet, chord
definition) for a distance of 260.4 feet to an iron
pipe; turn left through an angle of 95 degrees — 12
minutes — 26 seconds and run Easterly and parallel
with the North line of this tract for a distance of
314.7 feet to the point of beginning.

(d) On certain real property owned by the State of Mississippi and held by the Mississippi Department of Agriculture and Commerce, more particularly described as follows:

39 acres lying in the northeast corner of the
intersection of Mississippi 25 and Interstate 55.

(e) At any location in Hinds County as shall be submitted by the Board of Directors of the Mississippi Children's Museum, a Mississippi nonprofit corporation, to the Department of Finance and Administration and approved as an appropriate location by the Department of Finance and Administration.

SOURCES: Laws, 1997, ch. 535, § 17; Laws, 1999, ch. 589, § 134; Laws, 2001, ch. 600, § 61; Laws, 2004, ch. 451, § 2, eff from and after July 1, 2004.

Editor's Note — Sections 16 through 19 of ch. 535, Laws of 1997, were codified as §§ 39-23-1 through 39-23-7; Sections 20 through 33 of ch. 535, Laws of 1997, were omitted from codification.

Laws of 1997, ch. 535, § 20, as amended by Laws of 1999, ch. 589, § 137, as amended by Laws of 2001, ch. 600, § 64, and as amended by Laws of 2004, ch. 451, § 5 provides: "SECTION 20. (1) Upon the receipt of matching funds or verification that the matching funds described in this subsection are forthcoming, the Department of Finance and Administration, a tone time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi in an amount not to exceed Two Million Dollars ($2,000,000.00) to provide funds for the: (a) repair, renovation, remodeling, equipping, furnishing, adding to or improving the old National Guard Armory on the State Fairgrounds in Jackson, Mississippi, or another structure if approved by the Department of Finance and Administration as provided in Section 17 of this act, for use as a children's museum as authorized under Sections 16 through 33 of this act; (b) repair, renovation, furnishing and equipping of the facility at the location described in Section 39-23-3(c); (c) construction, furnishing and equipping of a facility at the location described in Section 39-23-3(d); or (d) construction, furnishing and equipping of a facility at a location selected as provided in Section 39-23-3(e). The issuance of the bonds described in this subsection and the allocation of such funds are conditioned upon the private sector or local or federal government providing Two Million Dollars ($2,000,000.00) to match the funds provided under this section. The matching funds required pursuant to this subsection may be provided in the form of cash or in-kind contributions or any combination of cash or in-kind contributions. In-kind contributions shall include, but not be limited to, the value of exhibits that are contributed to the children's museum authorized under Sections 16 through 33 of this act.

"(2) Upon the adoption of a resolution by the Department of Finance and Administration, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the department shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of such resolution, the State Bond Commission, in its discretion, may act as the issuing agent, prescribe the for of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The amount of bonds issued under Sections 16 through 33 of this act shall not exceed Two Million Dollars ($2,000,000.00)."

ATTORNEY GENERAL OPINIONS

The Department of Finance and Administration has the discretion to determine whether any item or service will be accepted as an in-kind match and to determine whether the value assigned to the in-kind match is in fact the fair market value. Stringer, Mar. 4, 2005, A.G. Op. 05-0029.

Matching funds must actually be received by the Department of Finance and Administration in order to declare by resolution the necessity for the issuance of bonds, or the Department must determine that matching funds in fact exist and are legally obligated to be transferred to it a date certain or upon the happening of an event, i.e., the issuance of the bonds. Stringer, Mar. 4, 2005, A.G. Op. 05-0029.

The Department of Finance and Administration is authorized to declare by resolution, at one time or from time to time, the necessity for issuance of general obligation bonds for the creation of a children's museum. Stringer, Mar. 4, 2005, A.G. Op. 05-0029.

§ 39-23-5. Repair, renovation, furnishing and equipping of facility.

(1) The Department of Finance and Administration shall proceed with the repair, renovation, furnishing and equipping of the old National Guard Armory on the Mississippi State Fairgrounds, or another structure if approved by the Department of Finance and Administration as provided in Section 17 of Chapter 589, Laws of 1999, for its use as a children's museum as soon as practicable.

(2) The Department of Finance and Administration shall proceed with the repair, renovation, furnishing and equipping of the facility at the location described in Section 39-23-3(c) as soon as practicable.

(3) The Department of Finance and Administration shall proceed with the construction, furnishing and equipping of a facility at the location described in Section 39-23-3(d), if the location at such site is approved by the Board of Directors of the Mississippi Children's Museum and the Department of Finance and Administration, as soon as practicable.

(4) The Department of Finance and Administration shall proceed with the construction, furnishing and equipping of a facility at a location selected as provided in Section 39-23-3(e), if the location is approved by the Board of Directors of the Mississippi Children's Museum and the Department of Finance and Administration, as soon as practicable.

SOURCES: Laws, 1997, ch. 535, § 18; Laws, 1999, ch. 589, § 135; Laws, 2001, ch. 600, § 62; Laws, 2004, ch. 451, § 3, eff from and after July 1, 2004.

Editor's Note — Laws of 1997, ch. 535, § 20, as amended by Laws of 1999, ch. 589, § 137, as amended by Laws of 2001, ch. 600, §.n 64, and as amended by Laws of 2004, ch. 451, § 5 provides:

"SECTION 20. (1) Upon the receipt of matching funds or verification that the matching funds described in this subsection are forthcoming, the Department of Finance and administration, a tone time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi in an amount not to exceed Two million Dollars ($2,000,000.00) to provide funds for the: (a) repair, renovation, remodeling, equipping, furnishing, adding to or improving the old National Guard Armory on the State fairgrounds in Jackson, Mississippi, or another structure if approved by the Department of Finance and Administration as provided in Section 17 of this act, for use as a children's museum as authorized under Sections 16 through 33 of this act; (b) repair, renovation, furnishing and equipping of the facility at the location described in Section 39-23-3(c); (c) construction, furnishing and equipping of a facility at the location described in Section 39-23-3(d); or (d) construction, furnishing and equipping of a facility at a location selected as provided in Section 39-23-3(e). The issuance of the bonds described in this subsection and the allocation of such funds are conditioned upon the private sector or local or federal government providing Two Million Dollars ($2,000,000.00) to match the funds provided under this section. The matching funds required pursuant to this subsection may be provided in the form of cash or in-kind contributions or any combination of cash or in-kind contributions. In-kind contributions shall include, but not be limited to, the value of exhibits that are contributed to the children's museum authorized under Sections 16 through 33 of this act.

"(2) Upon the adoption of a resolution by the Department of finance and Administration, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the department shall deliver a certified copy of its resolution or resolutions to the State bond Commission. Upon receipt of such resolution, the State Bond commission, in its discretion, may act as the issuing agent, prescribe the for of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The amount of bonds issued under Sections 16 through 33 of this act shall not exceed Two million Dollars ($2,000,000.00)."

§ 39-23-7. Lease of facility to nonprofit corporation.

(1) If the old National Guard Armory is repaired, renovated, furnished and equipped as provided for in Sections 39-23-1 through 39-23-7 and Sections 20 through 33 of Chapter 535, Laws of 1997, as amended, the Mississippi Fair Commission shall lease the facility for a period not exceeding twenty (20) years to a nonprofit corporation whose primary purpose for incorporation is the support and improvement of a children's museum in Mississippi. The benefit to Mississippi from the operation of such lease shall be considered as sufficient consideration. The lease shall be executed for a nominal fee and it shall be presumed that such lease shall not amount to a donation of state property.

(2) If the facility at the location described in Section 39-23-3(c) is repaired, renovated, furnished and equipped as provided for in Sections 39-23-1 through 39-23-7 and Sections 20 through 33 of Chapter 535, Laws of 1997, as amended, the Department of Finance and Administration shall lease the facility for a period not exceeding twenty (20) years to a nonprofit corporation whose primary purpose for incorporation is the support and improvement of a children's museum in Mississippi. The benefit to Mississippi from the opera-

tion of such lease shall be considered as sufficient consideration. The lease shall be executed for a nominal fee and it shall be presumed that such lease shall not amount to a donation of state property.

(3) If the facility at the location described in Section 39-23-3(d) is constructed, furnished and equipped as provided for in Sections 39-23-1 through 39-23-7 and Sections 20 through 33 of Chapter 535, Laws of 1997, as amended, the Department of Finance and Administration shall lease the facility for a period not exceeding twenty (20) years to a nonprofit corporation whose primary purpose for incorporation is the support and improvement of a children's museum in Mississippi. The benefit to Mississippi from the operation of such lease shall be considered a sufficient consideration. The lease shall be executed for a nominal fee and it shall be presumed that such lease shall not amount to a donation of state property.

(4) If the facility at a location selected as provided in Section 39-23-3(e), to include the approval of any using and/or controlling agency, board or commission of the proposed site, is constructed, furnished and equipped as provided for in Sections 39-23-1 through 39-23-7 and Sections 20 through 33 of Chapter 535, Laws of 1997, as amended, the Department of Finance and Administration shall lease the facility for a period not exceeding fifty (50) years to a nonprofit corporation whose primary purpose for incorporation is the support and improvement of a children's museum in Mississippi. The benefit to Mississippi from the operation of such lease shall be considered a sufficient consideration. The lease shall be executed for a nominal fee and it shall be presumed that such lease shall not amount to a donation of state property. Upon the expiration of the fifty-year lease term, the property leased, conveyed or transferred under this section shall revert back to the controlling agency or to the State of Mississippi.

(5) The State of Mississippi shall retain all mineral rights to such property.

SOURCES: Laws, 1997, ch. 535, § 19; Laws, 1999, ch. 589, § 136; Laws, 2001, ch. 600, § 63; Laws, 2004, ch. 451, § 4; Laws, 2006, ch. 575, § 1, eff from and after passage (approved Apr. 24, 2006.)

Editor's Note — Sections 16 through 19 of ch. 535, Laws of 1997, were codified as §§ 39-23-1 through 39-23-7; Sections 20 through 33 of ch. 535, Laws of 1997, were omitted from codification.

Laws of 1997, ch. 535, § 20, as amended by Laws of 1999, ch. 589, § 137, as amended by Laws of 2001, ch. 600, § 64, and as amended by Laws of 2004, ch. 451, § 5 provides:

"SECTION 20. (1) Upon the receipt of matching funds or verification that the matching funds described in this subsection are forthcoming, the Department of Finance and Administration, a tone time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi in an amount not to exceed Two Million Dollars ($2,000,000.00) to provide funds for the: (a) repair, renovation, remodeling, equipping, furnishing, adding to or improving the old National Guard Armory on the State Fairgrounds in Jackson, Mississippi, or another structure if approved by the Department of Finance and Administration as provided in Section 17 of this act, for use as a children's museum as authorized under Sections 16 through 33 of this act; (b) repair, renovation, furnishing and equipping of the facility at the location described in Section 39-23-3(c); (c) construction, furnishing and equipping of a facility at the location described in Section 39-23-3(d); or (d) construction, furnishing and equipping of a facility at a location selected as provided in Section 39-23-3(e). The issuance of the bonds described in this subsection and the allocation of such funds are conditioned upon the private sector or local or federal government providing Two Million Dollars ($2,000,000.00) to match the funds provided under this section. The matching funds required pursuant to this subsection may be provided in the form of cash or in-kind contributions or any combination of cash or in-kind contributions. In-kind contributions shall include, but not be limited to, the value of exhibits that are contributed to the children's museum authorized under Sections 16 through 33 of this act.

"(2) Upon the adoption of a resolution by the Department of finance and Administration, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the department shall deliver a certified copy of its resolution or resolutions to the State bond Commission. Upon receipt of such resolution, the State Bond commission, in its discretion, may act as the issuing agent, prescribe the for of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The amount of bonds issued under Sections 16 through 33 of this act shall not exceed Two million Dollars ($2,000,000.00)."

CHAPTER 25

Mississippi Arts and Entertainment Center

Sec.
39-25-1. Establishment of Mississippi Arts and Entertainment Center; purpose of center; duties and objectives of center; Department of Finance and Administration authorized to contract with nonprofit corporation for construction, operation, and administration of center.

§ 39-25-1. Establishment of Mississippi Arts and Entertainment Center; purpose of center; duties and objectives of center; Department of Finance and Administration authorized to contract with nonprofit corporation for construction, operation, and administration of center.

(1) There is established the Mississippi Arts and Entertainment Center ("center") to be housed in a facility or facilities located within the corporate limits of Meridian, Mississippi. The purpose of the center shall be to provide an educational, entertaining and interactive facility to capture the essence of Mississippi's legacy in the arts and celebrate the richness and depth of that legacy and the Mississippians who created it with the world; and to provide family-oriented attractions in the delivery of an educational experience to citizens of, and visitors to, Mississippi.

(2) The center shall be a state-of-the-art facility which may include, but not be limited to, MAEC exhibits, a state-sanctioned Mississippi Arts and Entertainment Hall of Fame inducting icons in all genres of arts and entertainment, Walk of Fame, auditorium, outdoor performance plaza, and broadcast/recording facility. The center will prove a vast educational resource for individuals and educators offering unparalleled insight into the lives and stories of Mississippi arts and entertainment treasures through seminars, workshops and demonstrations by guest professionals and/or amateur artists.

(3) The duties and objectives of the center shall be:

(a) To stimulate and encourage throughout the state the study and presentation of the performing, visual, and literary arts and public interest and participation therein;

(b) To encourage participation in, appreciation of, and education in the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(c) To take such steps as may be necessary and appropriate to encourage public interest in the cultural heritage of Mississippi and the south to expand the state's cultural resources, and to promote the use of art in state government's activities and facilities; and

(d) To encourage excellence and assist freedom of artistic expression essential for the well-being of the arts.

(4) The center is authorized to hold public hearings, to enter into contracts within the limit of funds available therefor, with individuals,

organizations and institutions for services furthering the objectives of the center's programs; to enter into contracts, within the limit of funds available therefor, with local and regional associations for cooperative endeavors furthering the objectives of the center's programs; to make and sign any agreements and to do and perform any acts that may be necessary to carry out the purposes of this section.

(5) The Department of Finance and Administration may enter into any agreement with a nonprofit corporation necessary for the construction, operation and administration of the center. For the construction, operation and administration of the center, such nonprofit corporation may receive and expend any funds made available in any manner by public or private sources and may receive contributions and donations of land or other property and other forms of financial assistance and property, equipment, materials or manpower from persons, foundations, trust funds, corporations, organizations, and other public or private sources to be expended and used in carrying out the mission of the center.

SOURCES: Laws, 2001, ch. 508, § 1; Laws, 2013, ch. 460, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment substituted "Mississippi Arts and Entertainment Center" for "Southern Arts and Entertainment Center", "capture the essence of Mississippi's legacy ....who created it with the world" for "illustrate the unique culture of the State of Mississippi or other southern states; to illustrate the outstanding contributions of Mississippians to the arts and the field of entertainment" in (1); rewrote (2), which read "The center shall consist of a conference center, a performing arts theater, an amphitheater and an artists' village. The center shall conduct ongoing events such as induction into an arts and entertainment hall of fame, seminars, workshops and demonstrations by guest artists"; and deleted the former last sentence of (5) which read: "However, no state funds or other state resources may be used for the center unless specifically authorized by the Legislature for that purpose."

CHAPTER 27

Mississippi Blues Commission

Sec.	
39-27-1.	Mississippi Blues Commission created; "blues" defined; powers, functions and duties of commission; composition of membership; compensation; report; creation of special fund.
39-27-3.	Mississippi Blues Trail historical markers.

§ 39-27-1. Mississippi Blues Commission created; "blues" defined; powers, functions and duties of commission; composition of membership; compensation; report; creation of special fund.

(1) There is created the Mississippi Blues Commission, hereinafter referred to as the "commission." The commission may accept and expend grants and private donations from any source, including federal, state, public and private entities, to assist it to carry out its functions.

(2) For purposes of this chapter, the term "blues" shall mean African-American roots music and the culture that created it.

(3) The powers, functions and duties of the commission shall include, but shall not be limited to, the following:

(a) To study, deliberate and report to the Governor and the Legislature on the best method or plan to market and foster an appreciation of the blues, to include tourism, academic study and blues archives, blues historical preservation, blues cultural education and the support of performing artists. The marketing plan shall be designed to attract tourists, conferences, music performances, filmmakers and others for the purpose of economic development of all geographic areas of the state, through the promotion of the blues and the heritage and culture that produced the blues, and to analyze the tourism potential of the blues for Mississippi.

(b) To make an inventory of blues "assets" that make up the blues and blues culture that could be developed into a program for domestic and international tourism, and opportunities for investment.

(c) To establish a statewide Mississippi "Blues Trail" infrastructure to offer to tourists and targeted groups a structured tour of Mississippi blues historical sites and performance venues.

(d) To coordinate with the Division of Tourism of the Mississippi Development Authority, the Department of Archives and History, the Mississippi Department of Transportation, the Mississippi Educational Television Authority, the State Institutions of Higher Learning, the Center for the Study of Southern Culture at the University of Mississippi, the University Center for Economic Development at Mississippi Valley State University, the Delta Center for Culture and Learning at Delta State University, the Delta Blues Museum, the Delta Music Institute, the Mississippi Arts Commission and similar organizations in the sharing of resources and information in order to ensure a comprehensive approach to marketing the blues and blues culture in Mississippi.

(e) To make recommendations regarding the establishment of, and budgeting for, a permanent Mississippi Office of the Blues as an agency of state government with an executive director and appropriate staff to carry out the marketing plan developed by the commission. To the extent practical, any office shall be located at an existing public or private location which is appropriate to the blues or blues culture in Mississippi, with minimal cost to the state.

(f) To coordinate the blues marketing plan with any existing state historic preservation programs, in order to:

(i) Identify and preserve blues historic properties or sites;

(ii) Determine the eligibility of those properties or sites for listing on the National Register;

(iii) Prepare nominations of those properties or sites for inclusion on the National Register;

(iv) Maintain blues historical and archaeological data bases; and

(v) Evaluate those properties and sites for eligibility for state and federal preservation incentives.

(g) To raise and expend grant funds to provide assistance to any blues musicians in need.

(4) The commission shall be composed of the following members:

(a) The Director of the Division of Tourism of the Mississippi Development Authority;

(b) The Executive Director of the Mississippi Department of Archives and History, or his designee;

(c) The Executive Director of the Mississippi Arts Commission, or his designee;

(d) The Executive Director of the Mississippi Educational Television Authority, or his designee;

(e) The Director of the Center for the Study of Southern Culture at the University of Mississippi;

(f) Until April 10, 2008, the Director of the University Center for Economic Development at Mississippi Valley State University, and after April 10, 2008, a person designated by the President of Mississippi Valley State University;

(g) The Director of the Delta Center for Culture and Learning at Delta State University;

(h) The President of the B.B. King Museum and Delta Interpretive Center;

(i) The State Director of the USDA Rural Development Agency;

(j) Two (2) members of the Mississippi Senate designated by the Lieutenant Governor, who shall serve on a nonvoting basis;

(k) Two (2) members of the Mississippi House of Representatives designated by the Speaker of the House, who shall serve on a nonvoting basis;

(*l*) Two (2) members appointed by the Governor, who shall have experience in cultural affairs or tourism development in the Mississippi Delta; and

(m) Four (4) members appointed by the Governor from the state at large, who shall have demonstrated a commitment to the understanding and promotion of the blues.

(5) The Governor shall designate one (1) commission member to serve as chairman for a term concurrent with that of the Governor. The commission shall meet upon the call of the chairman not later than August 1, 2004, and shall organize for business by adopting internal organizational procedures necessary for efficient operation of the commission, including officers, quorum requirements and policies for any commission staff. Each member of the commission shall designate necessary staff of his or her respective agency, department, university or business entity, as the case may be, to provide administrative support to assist the commission in performing its duties and responsibilities. The commission shall meet and conduct business at least quarterly each year. Meetings of the commission shall be open to the public and opportunity for public comment shall be made available.

(6) Members of the commission shall receive no compensation for their services.

(7) The commission shall submit a report, including any proposed legislation, to the Governor and to the Legislature before the convening of the 2009 Regular Session. The report shall include a comprehensive state plan for marketing the blues as specifically provided above.

(8) All departments, boards, agencies, officers and institutions of the state, and all subdivisions thereof, shall cooperate with the commission in carrying out its purposes under this chapter.

(9) Any funds or donations received by the commission shall be deposited into a special fund which is created in the State Treasury. The fund shall be maintained by the State Treasurer as a special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the special fund.

Monies in the fund shall be expended by the Department of Finance and Administration after receipt of requisitions submitted by the appropriate person designated by the commission. Monies in the special fund may be used by the commission in carrying out its responsibilities under this chapter.

SOURCES: Laws, 2004, ch. 391, § 1; Laws, 2008, ch. 476, § 1; Laws, 2010, ch. 368, § 1, eff from and after July 1, 2010.

§ 39-27-3. Mississippi Blues Trail historical markers.

The commission shall designate specific sites for erection of appropriate "Mississippi Blues Trail" markers to offer to tourists and targeted groups a structured tour of Mississippi blues historical sites and performance venues.

The commission shall be authorized to purchase appropriate Mississippi Blues Trail markers from any of its available funds. The texts for the Mississippi Blues Trail markers shall be approved by the commission. The Mississippi Department of Transportation shall cooperate with the commission by erecting and maintaining the markers that have been approved by the commission.

SOURCES: Laws, 2004, ch. 391, § 2, eff from and after July 1, 2004.

CHAPTER 29

Mississippi Commission on the Holocaust

SEC.
39-29-1. Mississippi Commission on the Holocaust created; membership; rules and regulations; gifts, grants and donations; compensation.

§ 39-29-1. Mississippi Commission on the Holocaust created; membership; rules and regulations; gifts, grants and donations; compensation.

(1) There is created the Mississippi Commission on the Holocaust in the executive branch of state government. The commission shall be assigned to the Office of the Secretary of State for administrative purposes only.

(2) The commission shall be composed of the following members:

(a) Ex officio members as follows:

(i) The State Superintendent of Public Education or his or her designee;

(ii) Commissioner of Institutions of Higher Learning or his or her designee;

(b) Public members as follows:

(i) Seven (7) public members, at least one (1) from each of the congressional districts, to be appointed by the Governor;

(ii) Five (5) public members, at least one (1) from each of the congressional districts, to be appointed by the Speaker of the House of Representatives; and

(iii) Five (5) public members, at least one (1) from each of the congressional districts, to be appointed by the Lieutenant Governor.

(c) The public members of the commission shall be residents of this state and shall be appointed with due regard for broad geographic representation. The public members should include, but are not be limited to, the following:

(i) Individuals who have served prominently as spokespersons for or as leaders of organizations or corporations that serve members of religious, ethnic, national heritage, or social groups that were subjected to genocide, torture, wrongful deprivation of liberty or property, officially imposed or sanctioned violence, and other forms of human rights violations and persecution at the hands of the Nazis and their collaborators during the Nazi era;

(ii) Individuals who are experienced in the field of Holocaust education;

(iii) Individuals who represent liberators of victims of the Holocaust; or

(iv) Lay persons who have an interest in Holocaust education.

(d) Public members of the commission shall be appointed for the terms of five (5) years and until their respective successors are appointed and qualified. Public members may be eligible for reappointment. The office of any member of the commission who fails to attend more than two (2) consecutive meetings of the commission without an excuse approved by a resolution of the commission shall become vacant. All vacancies shall be filled by appointment in the same manner as the original appointment, and the person appointed to fill a vacancy shall serve for the remainder of the unexpired term.

(e) The commission shall have a chairperson who shall be appointed by the Governor for a term of five (5) years and until his or her successor is appointed and qualified.

(f) Seven (7) members of the commission shall constitute a quorum for the transaction of the business of the commission. Public members shall have the right to vote on any matter before the commission, but ex officio members and their designees shall not have the right to vote.

(g) The Speaker of the House of Representatives shall appoint a member of the House of Representatives and the Lieutenant Governor shall appoint a member of the Senate to serve as advisors to the commission.

(3) The Mississippi Commission on the Holocaust shall adopt rules and regulations and set standards and policies for the organization, operation, management, budgeting and programs of the commission.

(a) The commission shall provide, based upon the collective knowledge and experience of its members, assistance and advice to public and private schools, colleges and universities with respect to the implementation of Holocaust education and awareness programs.

(b) The commission shall meet with appropriate education officials and other interested public and private organizations, including service organizations, for the purpose of providing information, planning, coordination, or modification of courses of study or programs dealing with the subject of the Holocaust.

(c) The commission shall survey and catalogue the extent of the Holocaust and genocide education presently being incorporated into the curricula and taught in the educational system of this state.

(d) The commission shall inventory those Holocaust memorials, exhibits and resources that could not be incorporated into courses of study or programs at various locations and other educational agencies for the development and implementation of Holocaust and genocide education programs. In furtherance of this responsibility, the commission may contact and cooperate with existing Holocaust and genocide public and private nonprofit resource organizations and may act as a liaison concerning Holocaust and genocide education or members of the United States Senate and House of Representatives, the Mississippi Senate and House of Representatives, the United States Holocaust Memorial Museum and other national and international Holocaust agencies.

(e) The commission shall compile a roster of individual volunteers who are willing to share their verifiable knowledge and experience in classrooms, seminars and workshops on the subject of the Holocaust. The volunteers may be survivors of the Holocaust, liberators of concentration camps, scholars, members of the clergy, community relations professionals, and other persons who, by virtue of their experience, education, or interest, have experience with the Holocaust.

(f) The commission shall coordinate events memorializing the Holocaust and seek volunteers who are willing and able to participate in commemorative events that will enhance public awareness of the significance of the Holocaust.

(g) The commission shall prepare reports for the Governor and the Legislature regarding its findings and recommendations to facilitate the inclusion of Holocaust studies and special programs memorializing the Holocaust in educational systems of this state.

(h) The commission shall appoint advisory committees to advise the commission on the fulfillment of its duties.

(4) The commission may receive gifts, grants and donations from any public or private sources. Members of the commission may not be compensated for the performance of their duties except from funds that are specifically appropriated therefor by the Legislature or from gifts, grants or donations.

SOURCES: Laws of 2004, ch. 432, § 2, eff from and after July 1, 2004.

Editor's Note — Laws of 2004, ch. 432, § 1 provides:

"SECTION 1. The Legislature of the State of Mississippi finds and declares that:

"(a) During the period from 1933 to 1945, six million (6,000,000) Jews and millions of other Europeans were murdered in Nazi concentration camps as part of a carefully orchestrated program of cultural, social and political genocide known as the Holocaust;

"(b) All people should remember the horrible atrocities committed at that time and other times in human history as the result of bigotry and tyranny, and therefore should continually rededicate themselves to the principles of human rights and equal protection under the laws of a democratic society;

"(c) It is desirable to educate our citizens about the events leading up to the Holocaust and about the organizations and facilities that were created and used purposefully for the systematic destruction of human beings;

"(d) Holocaust history is the proper concern of all people, particularly students enrolled in the schools, colleges and universities of the State of Mississippi;

"(e) Programs, workshops, institutes, seminars, exhibits, and other teacher-training activities for the study of the Holocaust have taken place during recent years at various middle schools, high schools, colleges and universities in this state; and

"(f) It is desirable to create a permanent state commission, which as an organized body and on a continuous basis, will survey, design, encourage and promote implementation of Holocaust education and awareness programs in Mississippi, and will be responsible for organizing and promoting the memorialization of the Holocaust on a regular basis throughout the state."

CHAPTER 31

Mississippi Bicentennial Celebration Commission [Repealed effective July 1, 2019]

Sec.
39-31-1. Mississippi Bicentennial Celebration Commission created; composition; organization; compensation; funding and expenditures; Mississippi Bicentennial Celebration Fund [Repealed effective July 1, 2019].

§ 39-31-1. Mississippi Bicentennial Celebration Commission created; composition; organization; compensation; funding and expenditures; Mississippi Bicentennial Celebration Fund [Repealed effective July 1, 2019].

(1) There is hereby created a Mississippi Bicentennial Celebration Commission to plan and designate official events in commemoration of the Bicentennial of the establishment of the State of Mississippi.

(2) The commission shall be composed of the following members:

(a) The Governor, or his designee;

(b) The Lieutenant Governor, or his designee;

(c) The Speaker of the House of Representatives, or his designee;

(d) Three (3) members appointed by the Governor, one (1) from each of the Mississippi Supreme Court districts, to serve terms concurrent with that of the Governor;

(e) Three (3) members appointed by the Lieutenant Governor, one (1) from each of the Mississippi Supreme Court districts, and one (1) of whom shall represent the industrial community, to serve terms concurrent with that of the Lieutenant Governor;

(f) Three (3) members appointed by the Speaker of the House of Representatives, one (1) from each of the Mississippi Supreme Court districts, and one (1) of whom shall be a Native American, to serve terms concurrent with that of the Speaker;

(g) Two (2) members appointed by the Board of Trustees of the Mississippi Department of Archives and History, to serve terms of two (2) years; and

(h) The Executive Director of the Mississippi Department of Archives and History, who shall serve as chairman of the commission.

(3) Appointments shall be made within thirty (30) days after the passage of this act by the Legislature, and, within fifteen (15) days thereafter on a day to be designated by the chairman of the commission, the commission shall meet and organize by selecting from its membership a vice chairman who shall also serve as secretary and shall be responsible for keeping all records of the commission. A majority of the members of the commission shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the commission shall be required. All members shall be notified in writing of all meetings, such notices

to be mailed at least five (5) days prior to the date on which a meeting is to be held.

(4) The commission shall designate and coordinate programs with respect to the formal Bicentennial celebration and commemoration of the establishment of the State of Mississippi in 1817.

(5) Members of the commission who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by Section 25-3-69, Mississippi Code of 1972, and shall be reimbursed in accordance with Section 25-3-41, Mississippi Code of 1972, for mileage and actual expenses incurred in the performance of their duties. Legislative members of the commission shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the commission will be paid while the Legislature is in session. No commission member may incur per diem, travel or other expenses unless previously authorized by vote, at a meeting of the commission, which action shall be recorded in the official minutes of the meeting. Nonlegislative members shall be paid from any funds made available to the commission for that purpose.

(6) The commission shall utilize the administrative staff of the Mississippi Department of Archives and History and any other staff assistance made available to it. To effectuate the purpose of this section, any department, division, board, bureau, commission or agency of the state or of any political subdivision thereof shall, at the request of the chairman of the commission, provide to the commission such facilities, assistance and data as will enable the committee properly to carry out its task.

(7) The commission is authorized and empowered to accept and expend funds from any private, public or other source for the purpose of designating, coordinating and providing programs with respect to the formal Bicentennial celebration of the State of Mississippi. Any expenditures by the commission shall be authorized by a majority vote of the nonlegislative members of the commission.

(8) There is hereby created in the State Treasury the Mississippi Bicentennial Celebration Fund, from which expenditures may be made pursuant to appropriation and upon warrant signed by the proper official. Any funds remaining in this fund at the end of the fiscal year shall not lapse but shall remain in the fund.

SOURCES: Laws, 2009, ch. 418, § 1, eff from and after July 1, 2009.

Editor's Note — The preamble to Laws of 2009, ch. 418, provides:

"WHEREAS, on December 10, 1817, Mississippi was admitted to the Union as the 20th state. David Holmes, who had been serving as territorial Governor since 1809, became the first Governor of the state, and the territorial capital of Natchez continued as the State Capital on a temporary basis. After several relocations, the Mississippi Legislature designated a site known as LeFleur's Bluff on the Pearl River in the center of the state as the Capital City, and in 1822, the city was named 'Jackson' in honor of General Andrew Jackson; and

"WHEREAS, in 2017, the State of Mississippi will celebrate its Bicentennial; and

"WHEREAS, it is altogether proper to have a celebration appropriate to the magnitude of this event, and an extensive planning period is needed to prepare for an event of this scope and historical importance to our state; NOW, THEREFORE,"

Laws of 2009, ch. 418, § 3, provides:

"SECTION 3. Sections 1 and 2 of this act shall stand repealed on January 1, 2019."

Cross References — Contribution to Mississippi Bicentennial Celebration Fund from state income tax refund, see § 27-7-107.

CHAPTER 32

Mississippi Country and Western Music Commission

Sec.

39-32-1. Mississippi Country and Western Music Commission created; commission powers, functions and composition; report; disposition of funds received by commission [Repealed effective July 1, 2015].

§ 39-32-1. Mississippi Country and Western Music Commission created; commission powers, functions and composition; report; disposition of funds received by commission [Repealed effective July 1, 2015].

(1) There is hereby created the Mississippi Country and Western Music Commission, hereinafter referred to as the "commission." The commission may accept and expend grants and private donations from any source, including federal, state, public and private entities, to assist it to carry out its functions.

(2) For purposes of this chapter, the term "country and western music" shall mean country and western, blue grass and related music genre and the culture that created it.

(3) The powers, functions and duties of the commission shall include, but not be limited to, the following:

(a) To study, deliberate and report to the Governor and the Legislature on or before January 1, 2012, on the best method to market and foster an appreciation of country and western music, to include tourism, academic study and country and western music archives, country and western music historical preservation, country and western music cultural education and the support of performing artists. Such marketing plan shall be designed to attract tourists, conferences, music performances, filmmakers and others for the purpose of economic development of all geographic areas of the state through the promotion of country and western music and the heritage and culture that produced such, and to analyze the tourism potential of the country and western music for Mississippi.

(b) To make an inventory of country and western music "assets" that make up country and western music and its culture that could be developed into a program for domestic and international tourism, and opportunities for investment.

(c) Coordination with the Division of Tourism of the Mississippi Development Authority, the Department of Archives and History, the Mississippi Department of Transportation, the Mississippi Educational Television Authority, the state institutions of higher learning, the Center for the Study of Southern Culture at the University of Mississippi, the Mississippi Arts Commission, and similar organizations to share resources and information in order to ensure a comprehensive approach to marketing the country and western music culture in Mississippi.

(d) To make recommendations regarding the establishment of, and budgeting for, a permanent Mississippi office of country and western music as an agency of state government with an executive director and appropriate staff to carry out the marketing plan developed by the commission. To the extent practical, any office shall be located at an existing public or private location which is appropriate to the country and western music culture in Mississippi, with minimal cost to the state.

(e) Coordination of the country and western music marketing plan with any existing state historic preservation programs, in order to:

(i) Identify and preserve country and western music historic properties;

(ii) Determine the eligibility of such properties for listing on the National Register;

(iii) Prepare nominations of such sites for inclusion on the National Register;

(iv) Maintenance of country and western music historical and archaeological data bases; and

(v) Evaluation of such sites for eligibility for state and federal preservation incentives.

(f) To implement and continue the development and creation of the Mississippi Country Music Trail as outlined in Section 39-33-1, provide oversight of the Trail and its infrastructure, and explore funding opportunities to support continued implementation.

(4) The commission shall be composed of the following members:

(a) The Director of the Division of Tourism of the Mississippi Development Authority;

(b) The Executive Director of the Mississippi Department of Archives and History, or his designee;

(c) The Executive Director of the Mississippi Arts Commission, or his designee;

(d) The Executive Director of the Mississippi Educational Television Authority, or his designee;

(e) The Chairman of the Board of the Southern Arts and Entertainment Center, or his designee;

(f) The Director of the Center for the Study of Southern Culture at the University of Mississippi;

(g) The State Director of the USDA Rural Development Agency;

(h) Two (2) members of the Mississippi Senate designated by the Lieutenant Governor, who shall serve on a nonvoting basis;

(i) Two (2) members of the Mississippi House of Representatives designated by the Speaker of the House, who shall serve on a nonvoting basis;

(j) Two (2) members appointed by the Governor, who shall have experience in cultural affairs or tourism development in East Central Mississippi; and

(k) Four (4) members appointed by the Governor from the state at large, who shall have demonstrated a commitment to the understanding and promotion of country and western music.

(5) The Governor shall designate one (1) commission member to serve as chairman for a term concurrent with that of the Governor. The commission

shall meet upon the call of the chairman not later than July 1, 2011, and shall organize for business by adopting internal organizational procedures necessary for efficient operation of the commission, including officers, quorum requirements and policies for any commission staff. Each member of the commission shall designate necessary staff of their departments to provide administrative support to assist the commission in performing its duties and responsibilities. The commission shall meet and conduct business at least quarterly. Meetings of the commission shall be open to the public and opportunity for public comment shall be made available.

(6) Members of the commission shall receive no compensation for their services.

(7) The commission shall submit a report, including any proposed legislation, to the Governor and to the Legislature before the convening of the 2012 Regular Session. The report shall include a comprehensive state plan for marketing country and western music history as specifically provided above.

(8) All departments, boards, agencies, officers and institutions of the state and all subdivisions thereof shall cooperate with the commission in carrying out its purposes under this chapter.

(9) Any funds or donations received by the commission shall be deposited into a special fund which is hereby created in the State Treasury, and disbursement therefrom shall be made upon warrants by the Department of Finance and Administration after receipt of requisitions submitted by the appropriate person designated by the commission. Monies in the special fund may be used by the commission in carrying out its responsibilities under this chapter.

SOURCES: Laws, 2011, ch. 495, § 1, eff from and after passage (approved Apr. 6, 2011.)

Editor's Note — Laws of 2011, ch. 495, § 2, effective April 6, 2011, provides:

"SECTION 2. This act shall take effect and be in force from and after its passage, and shall stand repealed from and after July 1, 2015."

CHAPTER 33

Mississippi Country Music Trail

Sec.
39-33-1. Division of Tourism of Mississippi Development Authority authorized to create statewide Mississippi Country Music Trail infrastructure; purpose; trail markers; coordination with other organizations to share resources and information; coordination of marketing plan with state historic preservation programs.

§ 39-33-1. Division of Tourism of Mississippi Development Authority authorized to create statewide Mississippi Country Music Trail infrastructure; purpose; trail markers; coordination with other organizations to share resources and information; coordination of marketing plan with state historic preservation programs.

The Division of Tourism of the Mississippi Development Authority is authorized and directed to do the following:

(a) To make an inventory of country music "assets" that make up the country music culture that could be developed into a program for domestic and international tourism, and opportunities for investment.

(b) To establish a statewide Mississippi "Country Music Trail" infrastructure to offer to tourists and target groups a structured tour of Mississippi country music historical sites and performance venues.

(c) To designate specific sites for the erection of appropriate "Mississippi Country Music Trail" markers to offer to tourists and targeted groups a structured tour of Mississippi country music historical sites and performance venues. The division shall be authorized to purchase appropriate Mississippi Country Music Trail markers from any of its available funds. The texts for the Mississippi Country Music Trail markers shall be approved by the division. The Mississippi Department of Transportation shall cooperate with the division by erecting and maintaining the markers that have been approved by the division.

(d) To coordinate the Mississippi Country Music Trail program with the Mississippi Department of Archives and History, the Mississippi Department of Transportation, the Mississippi Educational Television Authority, the Board of Trustees of State Institutions of Higher Learning, the Jimmie Rogers Museum, the Center for the Study of Southern Culture at the University of Mississippi, the Delta Center for Culture and Learning at Delta State University, the Mississippi Arts Commission and similar organizations to share resources and information in order to ensure a comprehensive approach to marketing the country music and country music culture in Mississippi.

(e) To coordinate the Mississippi Country Music Trail marketing plan with any existing state historic preservation program, in order to identify and preserve country music historic properties, and determine the eligibility of such properties for listing on the National Register of Historic Places, and prepare nominations of such sites.

SOURCES: Laws, 2009, ch. 424, § 1, eff from and after July 1, 2009.

Cross References — Mississippi heritage, history and culture trail program, see § 39-37-1.

CHAPTER 35

Mississippi Sesquicentennial of the American Civil War Commission [Repealed effective July 1, 2015]

Sec.
39-35-1. Sesquicentennial of the American Civil War Commission created; composition; terms of office; executive committee; advisory council; quorum; compensation; staff; funding; powers and duties [Repealed effective July 1, 2015].

§ 39-35-1. Sesquicentennial of the American Civil War Commission created; composition; terms of office; executive committee; advisory council; quorum; compensation; staff; funding; powers and duties [Repealed effective July 1, 2015].

(1) The Mississippi Sesquicentennial of the American Civil War Commission (commission) is hereby established to prepare for and commemorate the Sesquicentennial of Mississippi's participation in the American Civil War (April 1861-April 1865).

(2) The commission shall have a total membership of fifteen (15) members, or their designee, as follows: (a) the Executive Director of the Mississippi Development Authority; (b) the Executive Director of the Mississippi Department of Archives and History; (c) the State Superintendent of Public Education, or his designee; (d) the Manager of the Bureau of Film and Culture of the Mississippi Development Authority, Division of Tourism; (e) the President/Chairman of the Mississippi Historical Society; (f) the Chairman of the Mississippi Civil War Battlefield Commission; (g) the Director of the Brice's Crossroads Battlefield Commission; (h) the Director of the Vicksburg National Military Park; (i) the Director of the Battle of Shiloh-Battle of Corinth National Military Park; (j) the Director of the Grand Gulf Military Monument; (k) a representative of the Mississippi Tourism Association; (l) the National Park Service Administrator of Ship Island/Fort Massachusetts; (m) a citizen of Mississippi appointed by the Governor; (n) a member of the Mississippi Senate appointed by the Lieutenant Governor who shall serve in an ex officio nonvoting capacity; and (o) a member of the Mississippi House of Representatives appointed by the Speaker who shall serve in an ex officio nonvoting capacity.

(3) Ex officio members and legislative members of the commission shall serve terms coincident with their terms of office. Citizen members shall serve a term of four (4) years. Appointments to fill vacancies other than the expiration of a term shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments and all members may be reappointed.

(4) The commission shall elect a chairman and vice chairman from among its membership. The commission may name five (5) of its members to constitute an executive committee, which shall act for the commission pursuant to its direction.

(5) The commission may appoint and establish an advisory council composed of citizens at large who have knowledge of American Civil War and Mississippi history and interest in its Sesquicentennial celebration, to assist the commission in its work.

(6) A majority of the members of the commission shall constitute a quorum. The meetings of the commission shall be held at the call of the chairman or whenever a majority of the members so request. No recommendation of the commission shall be adopted except by majority vote of the commission.

(7) Nonlegislative members of the commission shall receive no compensation for their services but may receive expense reimbursement and mileage for all reasonable and necessary expenses incurred in the performance of their duties as provided by law. Legislative members of the commission shall receive compensation applicable to committee meetings when the Legislature is not in session.

(8) The commission shall hire an executive director, and relevant support staff, to guide and support the actions of the commission. Employment shall not extend beyond the date of expiration of the commission and shall be subject to an annual review by the executive committee of the commission.

(9) The commission may solicit, accept, use and dispose of public or nonpublic funds, gifts, grants, donations, bequests or other funds or real or personal property for the purpose of aiding or facilitating the work of the commission. The commission may procure services, enter into contracts, leases or other legal agreements as it may deem necessary to carry out its duties as set forth in this act, but no contract or other legal agreement shall be entered into by the commission that extends beyond the date of expiration of the commission.

(10) The commission shall have the following powers and duties:

(a) Plan, develop and carry out educational, informational, new media/web-based programs and activities appropriate to commemorate the Sesquicentennial of the American Civil War, with emphasis on the military operations which occurred in the State of Mississippi;

(b) Encourage interdisciplinary examination of the American Civil War;

(c) Facilitate activities related to the American Civil War throughout Mississippi;

(d) Encourage civic, historical, educational, economic and other organizations throughout Mississippi to organize and participate in activities to expand the understanding and appreciation of the significance of the American Civil War;

(e) Provide technical and financial assistance to localities and nonprofit organizations to further the commemoration of the Sesquicentennial of the American Civil War;

(f) Develop programs and facilities to ensure that the Sesquicentennial commemoration of the American Civil War results in a positive legacy and long-term public benefit;

(g) Facilitate the development and conduct of programs designed to involve all citizens in activities that commemorate the American Civil War; and

(h) Submit to the Legislature and the Governor an annual report for publication of the work and activity of the commission no later than the first day of each regular session of the Legislature.

(11) The commission shall direct the Mississippi Department of Archives and History to enhance and expand Civil War markers across the state, along with all relevant educational and informational documentation necessary for the creation of a Civil War Trail, in advance of the initial celebration of the Sesquicentennial in Mississippi.

(12) All state agencies and universities shall provide technical assistance to the commission upon request.

(13) This section shall stand repealed on July 1, 2015.

SOURCES: Laws, 2009, ch. 507, § 4, eff from and after July 1, 2009.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed "(c) the State Department of Education, or his designee" to "(c) the State Superintendent of Public Education, or his designee" in subsection (2). The Joint Committee ratified the correction at its July 22, 2010 meeting.

CHAPTER 37

Mississippi Heritage, History and Culture Trail Program

Sec.	
39-37-1.	Division of Tourism of Mississippi Development Authority authorized to establish statewide Mississippi heritage, history and culture trail infrastructure; purpose; trail markers; coordination with other organizations to share resources and information.

§ 39-37-1. Division of Tourism of Mississippi Development Authority authorized to establish statewide Mississippi heritage, history and culture trail infrastructure; purpose; trail markers; coordination with other organizations to share resources and information.

The Division of Tourism Development of the Mississippi Development Authority is authorized and directed to do the following:

(a) To develop a marketing plan designed to attract tourists, conferences, music and theatrical performances, filmmakers and others for the purpose of the economic development of all geographic areas of the state through the promotion of projects related to Mississippi's heritage, history and culture.

(b) To make an inventory of assets related to Mississippi's heritage, history and culture.

(c) To establish a statewide infrastructure to offer tourists and targeted audiences a structured tour of sites and venues related to Mississippi's heritage, history and culture.

(d) To designate specific sites for the erection of trail markers for the sites and venues related to Mississippi's heritage, history and culture. The division is authorized to approve the texts for the markers and to purchase appropriate markers from any available funds. The Mississippi Department of Transportation shall cooperate with the division by erecting and maintaining the markers that have been approved by the division.

(e) To coordinate the trail program described in paragraph (d) of this section with the Mississippi Department of Archives and History, the Mississippi Authority for Educational Television, and the Board of Trustees of State Institutions of Higher Learning, and similar organizations to share resources and information in order to ensure a comprehensive approach to marketing the story of Mississippi's heritage, history and culture.

(f) To coordinate the trail program described in paragraph (d) of this section with any existing state historic preservation program, in order to identify and preserve historic properties, and determine the eligibility of those properties for listing on the National Register of Historic Places, and prepare nominations of those sites.

SOURCES: Laws, 2010, ch. 366, § 1, eff from and after July 1, 2010.

Cross References — Department of Archives and History, see §§ 39-5-1 et seq.
Historic preservation districts and landmarks, see §§ 39-13-1 et seq.
Mississippi Country Music Trail, see § 39-33-1.

CHAPTER 39

Mississippi Civil Rights Museum Advisory Commission

Sec.

39-39-1. Mississippi Civil Rights Museum Advisory Commission created; composition; responsibilities.

§ 39-39-1. Mississippi Civil Rights Museum Advisory Commission created; composition; responsibilities.

(1) There is hereby established a Mississippi Civil Rights Museum Advisory Commission (commission) which shall be comprised of the following members:

(a) The Executive Director of the Mississippi Department of Archives and History;

(b) The Director of Tourism of the Mississippi Development Authority;

(c) The President of Tougaloo College, or his or her designee;

(d) The President of Alcorn State University, or his or her designee;

(e) The President of Jackson State University, or his or her designee;

(f) The President of Mississippi Valley State University, or his or her designee;

(g) The President of Rust College, or his or her designee;

(h) The President of Mississippi University for Women, or his or her designee;

(i) The President of Delta State University, or his or her designee;

(j) The Chancellor of the University of Mississippi, or his or her designee;

(k) The President of Mississippi State University, or his or her designee;

(*l*) The President of the University of Southern Mississippi, or his or her designee;

(m) Two (2) representatives of the Veterans of the Mississippi Civil Rights Movement, Inc.;

(n) One (1) representative of the Fannie Lou Hamer Institute;

(o) The Director of the William F. Winter Institute for Racial Reconciliation;

(p) Four (4) appointees of the Governor, one (1) from each Mississippi Congressional District;

(q) Two (2) appointees of the Lieutenant Governor from the state at large; and

(r) Two (2) appointees of the Speaker of the House of Representatives from the state at large.

(2) The chairman of the commission shall be appointed by the Governor. The commission shall meet on a date announced by the Governor and shall organize for business by adopting rules of procedure. The Mississippi Department of Archives and History shall provide administrative support to the commission and serve as fiscal agent for the commission. Members of the

commission shall receive no compensation for attending meetings of the commission; however, members who are not public employees may be reimbursed for actual expenses incurred in attending meetings of the commission from any funds available for that purpose.

(3) The commission shall advise the Mississippi Department of Archives and History regarding matters relating to the Mississippi Civil Rights Museum.

SOURCES: Laws, 2011, ch. 522, § 1, eff from and after passage (approved Apr. 26, 2011.)

Editor's Note — Laws of 2011, ch. 522, § 3, provides:
"SECTION 3. It is the intent of the Legislature that both of the museums for which funding is provided under Section 2 of this act be open and operational to the public in the year 2017, the Bicentennial Year for the admission of Mississippi to statehood. It is understood that funding authorized under Section 2 of this act will not be sufficient to fully fund the planning, construction, furnishing and equipping of both museums. It is the further intention of the Legislature that a substantial portion of the cost of the acquisition, fabrication and installation of the exhibits for each museum shall be paid from funds derived from private, local and/or federal sources. Upon completion of the construction of the building structures of each museum, subsequent authorizations of funding from the Legislature for the museums will include specific requirements that a significant portion of the funds to be used for the acquisition, fabrication and installation of such exhibits be derived from such alternative sources."

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